

SENATE—Wednesday, May 14, 1980

(Legislative day of Thursday, January 3, 1980)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, who has blessed us with the gift of another day, help us to use it in a manner Thou canst bless and hallow with Thy presence. May we be strong to do things worth doing and strong in turning away from the unworthy, the base, and the trivial. Make us generous in praise of others and restrained in our criticism. In troubled times create triumphant souls and in difficult days grant us dividends in character and grace. Support by Thy sustaining presence the President and Congress in the ways of Thy kingdom. Gather the people of this Nation under the shelter of Thy love that we may do justly, love mercy, and walk humbly with our God. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 14, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE NEW SOVIET THREAT

Mr. ROBERT C. BYRD. Mr. President, the Soviet intervention in Afghanistan

is a reminder of both the old and the new in Soviet foreign policy. On the one hand, it is an example of the pursuit of very traditional Russian foreign policy objectives, the expansion of the Russian empire into contiguous areas. On the other hand, the Soviet action reminds us of new aspects of Soviet foreign policy. These new features are in many ways more troubling for the future than the more traditional aspects of Soviet foreign policy.

For the first time in history, the Soviet Union has acquired the military capabilities to project its power to any part of the globe. The Soviets have acquired a "blue water" navy and an airlift capacity that effectively extend their military reach.

The Soviets have not hesitated to use these new capabilities. They have provided the logistical support for major military operations on the Horn of Africa, in central and southern Africa—areas far from the Russian heartland and far from areas of traditional concern to the Soviet Union. Until the intervention in Afghanistan, the Soviets had preferred to rely on Cuban and other surrogate military forces. They may not be so circumspect in the future.

These new facts—Soviet military capabilities and their demonstrated willingness to use them far from Russia's borders—have transformed the international political situation. In the past, the Soviet threat was limited by its military capabilities to areas adjacent to the Soviet Union. The United States alone had the ability to project its power to any part of the globe. The Soviets have acquired the same kind of capabilities just at a time when the U.S. military capabilities—and our willingness to use them—have been called into question.

The Soviet threat today should not be confused with that of the immediate postwar years. Then, the Soviet Union used the power of the Red army to consolidate its control over nations in Eastern Europe. The United States and our allies could and did meet that threat by concentrating our energies and resources on Western Europe and in the Mediterranean. Now, the Soviet threat is global, it is not exclusively military, and the responses of the United States and other nations must be more varied and complex.

This analysis is not alarmist. The Russians are not 10 feet tall. The Soviet Union is bordered on the west by the rich, well-armed nations of Western Europe and on the east by an alert and determined People's Republic of China. Furthermore, the nations of the Third World are more determined than ever to maintain their independence and to

resist manipulation by outside powers. The valiant resistance of the people of Afghanistan is evidence of this determination. The conditions in the world are not propitious for the unbridled exercise of the Soviet Union's newly acquired military muscle.

The Soviet challenge we and our friends in the world face today is a new one. But I am convinced that we can meet this challenge if we perceive the situation clearly and we begin to respond now.

We need a response that is not spasmodic, lurching from crisis to crisis. We need a response that is part of a cooperative international effort. We need a well-thought-out, sustainable program that will leave us at the end of the 1980's with a more stable international order than we have now.

Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair. I have no requirement for our time under the standing order, and I am prepared to yield it back if there is no request for time or if the majority leader has no need for the time.

Would the majority leader like me to yield the time I have remaining?

Mr. ROBERT C. BYRD. I thank the minority leader. Mr. BUMPERS does have an order on my side, and he may need a little time.

Mr. BAKER. Mr. President, I yield my time under the standing order to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader. It may be that I may yield some of my time to Mr. BUMPERS.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, on the time that I have under my control, I ask for the following actions: That the Senate proceed immediately to the consideration of Calendar Orders Nos. 735 and 740.

Mr. BAKER. Mr. President, reserving the right to object—and I will not—the reservation is to gain the opportunity to advise the majority leader that those two items are cleared on our calendar, and we have no objection to their consideration and passage.

RENAMING BUILDINGS OF THE LIBRARY OF CONGRESS

The bill (S. 2517) to rename certain buildings of the Library of Congress, was

• This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building in the block bounded by East Capitol Street, Second Street Southeast, Independence Avenue Southeast, and First Street Southeast, in the District of Columbia (commonly known as the Library of Congress Building or the Library of Congress Main Building), shall hereafter be known and designated as the "Library of Congress Thomas Jefferson Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Library of Congress Thomas Jefferson Building.

SEC. 2. The building in the block bounded by East Capitol Street, Second Street Southeast, Third Street Southeast, and Pennsylvania Avenue Southeast, in the District of Columbia (commonly known as the Library of Congress Thomas Jefferson Building or the Library of Congress Annex Building), shall hereafter be known and designated as the "Library of Congress John Adams Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Library of Congress John Adams Building.

SEC. 3. The Act entitled "An Act to name the building known as the Library of Congress Annex to be the Library of Congress Thomas Jefferson Building", approved April 13, 1976 (90 Stat. 329), is hereby repealed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MISSOURI JUDICIAL DISTRICT REALINEMENT

The bill (S. 2432) to amend title 28 of the United States Code to provide that the counties of Audrain and Montgomery shall be in the Northern Division of the Eastern Judicial District of Missouri, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 105(a) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking out "Audrain," and by striking out "Montgomery,"; and

(2) in paragraph (2), by inserting "Audrain," immediately after "Adair," and by inserting "Montgomery," immediately after "Monroe,".

SEC. 2. The amendments made by this Act shall apply to any action commenced in the United States District Court for the Eastern District of Missouri on or after the date of enactment of this Act, and shall not affect any action pending in such court on such date of enactment.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Does the distinguished Senator from Arkansas need more time than the 15 minutes allotted to him? If he does, I will yield him more time.

Mr. BUMPERS. Mr. President, I do not need the 15 minutes. I will finish in less than 10.

Mr. ROBERT C. BYRD. Will the Senator indulge me for just a moment and then I will yield the floor.

TIME-LIMITATION AGREEMENT—HOUSE JOINT RESOLUTION 545

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, with the understanding that the measure could be taken up today if cleared with Messrs. HOLLINGS and BELLMON, but no later than tomorrow in any case, the following time agreement be observe in connection with Calendar Order No. 750, the food stamp urgent supplemental, House Joint Resolution 545: That there be 2 hours equally divided on the bill to be controlled by Mr. EAGLETON and Mr. YOUNG; that there be 1 hour equally divided on any amendment; that there be 1 hour equally divided on an amendment by Mr. BELLMON to instruct the Secretary of Agriculture not to request any more supplementals for the food stamp program; provided further that there be 30 minutes on any amendment in the second degree; that there be 20 minutes on any debatable motion or appeal or point of order, if such is submitted to the Senate; and that the agreement in all respects be in accordance with the usual form.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, I say to the distinguished majority leader that I have no objection to taking time out from that permitted on the pending measure for the purpose of passing and considering such amendments as persons may care to make concerning the food stamp issue. But if the time allocation, as indicated by the leader, were to be taken in full by those wishing to be heard on the subject, it will almost totally preclude any debate at all on the Bayh measure. I do believe that many of us contemplated that there would be adequate time for a full debate on this subject.

Therefore, if placed in this manner, I would have to object. But I would be very receptive to trying to work out a lesser period of time so there still would be adequate time to debate the bottlers' bill.

I am not opposed to bringing up the food stamp bill on an interim basis. But the number of hours that I mathematically calculated would be involved would seem to totally limit debate on the bottlers' bill. Since we go into session tomorrow morning, immediately thereafter have the quorum call and then the cloture motion, it would just about ef-

fectively preempt all the time available during the day for this subject.

Mr. ROBERT C. BYRD. Mr. President, I think I can assure the distinguished Senator that in no event would the measure be called up before 4 o'clock today.

Mr. METZENBAUM. In no event would this matter be called up before 4 o'clock today?

Mr. ROBERT C. BYRD. I think I could assure the Senator of that.

Mr. METZENBAUM. If it is not called up before 4 o'clock today, and that is a definite assurance, then I have no objection at all. That would allow us plenty of time to debate the bottlers' bill. On that basis, I have no objection.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—SECTION 904 WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the section 904 waiver is offered, which is the motion to waive the Budget Act in connection with the supplemental appropriations bill, there be 1 hour equally divided between Messrs. HOLLINGS and BELLMON.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 1309, FOOD STAMPS CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the food stamps conference report, S. 1309, is called up, there be the following time agreement on that conference report: 90 minutes, to be equally divided between Mr. TALMADGE and Mr. HELMS; that there be 1 hour on a motion by Mr. HELMS to recommit, the hour to be under the control exclusively of Mr. HELMS; and that there be 20 minutes on any other debatable motion, appeal, or point of order if such discussion is entertained by the Chair.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, but is the Senator from Ohio correct in assuming that the understanding that this matter will not come before 4 o'clock today is equally applicable to this issue?

Mr. ROBERT C. BYRD. Mr. President, the Senator is assured of that, with this condition: It will not be called up before 4 o'clock, except that with the approval of the Senator from Ohio, the Senator from Indiana, and the manager of the bill on the other side, we might take it up at 3:30.

Mr. METZENBAUM. Mr. President, that is entirely possible. I do not think I have that much, but there may be others who wish to be heard and it may make it impossible for me to get at it on tomorrow. So I have no desire to prolong the debate, but I want to be certain that those of us who do wish to be heard have an adequate time to do so.

If that be the case, I will tell the leader that I have nothing further and I have no objection to going forward on the food stamps conference report, as well as the budget matter.

Mr. ROBERT C. BYRD. It is the understanding that these measures could be called up at 4 o'clock, but the understanding is that they will not be called up before 4 o'clock unless Senators METZENBAUM, BAYH, and THURMOND have nothing further to say on the bottling bill, in which case we would be released from our assurance with respect to no action before 4 o'clock.

Mr. METZENBAUM. Mr. President, I always want to cooperate with the leader. Under those circumstances, I have no objection.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

RECOGNITION OF MR. BUMPERS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arkansas (Mr. BUMPERS) is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank Mr. BUMPERS for his patience.

S. 2695—CONVERTING OUR NATION'S UTILITIES FROM OIL AND NATURAL GAS TO COAL

Mr. BUMPERS. Mr. President, this country has embarked on an aggressive program to convert our Nation's utilities from oil and natural gas to coal. This program is a necessary and critical step in our urgent effort to free this Nation from its dangerous dependence on foreign oil. Everybody knows that we have the raw resources we need to accomplish this goal: The coal reserves in this Nation have a greater energy value than all the oil reserves of the entire Middle East.

I have already introduced a coal slurry pipeline bill to insure that our transportation systems will be adequate to haul the vastly increased amounts of coal that this Nation must produce to meet its future energy demands. But now I find

we are faced with a very serious new barrier to increased coal production: excessive severance taxes imposed on coal by States which hold the richest coal deposits in the entire Nation. Montana and Wyoming hold nearly half of America's coal reserves, hundreds of billions of tons of economically recoverable coal which is ideally suited for utility use because it is low in sulfur. But these States have now adopted a coal policy of their own aimed at keeping much of their coal in the ground and at reaping windfall profits on the coal they do produce. Through coal severance taxes at exorbitant rates—30 percent in Montana and 17 percent in Wyoming—these two States are imposing their coal policy on the rest of the Nation, at an unacceptable and unreasonable cost.

The consumers of most of this coal are utilities serving 20 other States from the Deep South to the Far Northeast. And these utilities have to pass the full cost of coal severance taxes to their rate-paying customers—millions of captive consumers who have absolutely no control over these exploitative tax levies.

Most utilities have agreed to assume the substantial costs of converting to coal during a severely inflationary period. It is simply unfair that some States be permitted to add to these costs and to inflation merely to reap unreasonably large revenues for themselves.

The billions of dollars which will be paid to Montana and Wyoming by citizens of other States are far in excess of any justifiable need. I have no quarrel with the concept of severance taxes: They are a legitimate means of defraying the costs of services which States bear to support coal production. But the 30-percent and 17-percent rates of coal severance taxes in Montana and Wyoming are demonstrably many times greater than any coal-related costs these States bear now or will bear in the foreseeable future. In fact, both of these States earn so much in severance taxes that they are able to place portions of the revenues in untouchable trust funds to earn interest for the future. Congress simply cannot sanction a taxing practice which forces out-of-State consumers, already hard-hit by inflation, to pick up

a huge tab today to provide for undefinable future needs in Montana and Wyoming.

The bill I am introducing today will only apply to coal mined on Federal or Indian lands. In 1979, 32,450,000 tons of coal were mined in Montana of which 12,900,000 tons were Federal; 71,825,000 tons were mined in Wyoming of which 30,100,000 tons were mined on Federal lands.

If we assume coal to sell for \$10 per ton which is approximately correct, then Wyoming with a 17-percent severance tax (of which 6.5 is a county tax) would have received \$21,930,000 and Montana with a 30-percent tax would have received \$97,350,000. When one considers that this is in addition to the 50 percent royalty these States receive on Federal coal, the price seems very handsome indeed.

As for those royalty payments, assuming a 12½-percent royalty to the United States (the minimum permitted by law) 50 percent of which goes to the States, Montana would have received \$7,512,500 and Wyoming would have received \$18,812,500.

In sum, this practice is unfair, inflationary, burdensome to interstate commerce, obstructive to national energy goals—and entirely without need or justification.

Yet if some controls are not imposed, oppressive taxation of coal will certainly continue in Montana and Wyoming, and will spread to other coal-producing States who are tempted by their example. Accordingly, I am, with Senators DURENBERGER, JACKSON, RIEGLE, NELSON, LEVIN, PROXMIER, and METZENBAUM introducing a bill which will limit to 12.5 percent the taxes which a State may impose on coal shipped in interstate commerce. This ceiling is generous to Montana and Wyoming, but it will restrain further exploitation of American coal and American consumers.

Mr. President, I ask unanimous consent that a list of severance tax rates by various States be inserted in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

STATE SEVERANCE TAXES ON OIL, GAS, AND COAL AS OF JULY 1979

State	Oil	Gas	Coal	State	Oil	Gas	Coal
Alabama.....	6 percent ¹	6 percent ¹	33.5¢/ton.	Mississippi.....	6.01 percent.....	6.01 percent.....	
Alaska.....	12.3 percent ¹	10 percent.....		Montana.....	2.3-2.85 percent ²	2.65 percent.....	30 percent.
Arizona.....	2.5 percent ¹	2.5 percent ¹		Nebraska.....	2.05 percent.....	2.05 percent.....	
Arkansas.....	4-5 percent ²	0.3¢/Mcf (0.2 percent).	2¢/ton.	Nevada.....	0.25¢/bbl. (0.025 percent).	0.05¢/Mcf (0.025 percent).	5 percent. ¹
California.....	1.1¢/bbl. (0.1 percent).	0.11¢/Mcf (0.06 percent).		New Mexico.....	51.5¢/bbl. ¹ (5.1 percent), +2.75 percent.	5.7¢/Mcf ¹ (2.8 percent), +2.75 percent.	0.75 percent +20.6¢-43.5¢/ton.
Colorado.....	2-5 percent ²	2-5 percent ²	60¢/ton.	North Carolina.....	0.25¢/bbl. (0.025 percent).	0.025¢/Mcf (0.13 percent).	
Florida.....	5-8 percent ²	5 percent.....		North Dakota.....	5 percent.....	5 percent.....	85¢/ton.
Georgia.....	0.25¢/bbl. (0.025 percent).	0.025¢/Mcf (0.013 percent).		Ohio.....	3¢/bbl. (0.3 percent).	1¢/Mcf (0.5 percent).	19-44¢/ton.
Idaho.....	0.25¢/bbl. (0.025 percent).	0.05¢/Mcf (0.025 percent).	2 percent.	Oklahoma.....	7.1 percent.....	7.1 percent.....	5¢/ton.
Indiana.....	1 percent.....	1 percent.....		South Dakota.....	4.5 percent.....	4.5 percent.....	4.5 percent.
Kansas.....	0.5¢/bbl. (0.04 percent).	0.08¢/Mcf (0.043 percent).		Tennessee.....	1.5 percent.....	1.5 percent.....	20¢/ton.
Kentucky.....	1.5 percent ¹		4.6 percent.	Texas.....	4.6 percent ¹	7.5 percent.....	
Louisiana.....	3.25-12.5 percent ²	7¢/Mcf (3.5 percent).	10¢/ton.	Utah.....	2.1 percent.....	2.1 percent.....	1 percent.
Michigan.....	4-6.6 percent.....	5 percent.....		West Virginia.....	4.3 percent.....	2.9 percent.....	3.5 percent.
				Wyoming.....	4 percent.....	4 percent.....	17 percent.

¹ Represents maximum possible rate where tax computation formula is complex.

² Represents range of rates in sliding scale based on volume of production.

Note: The following price figures have been used to convert per-volume tax rates to percentage figures. Oil: \$10 (conservatively estimated average of current prices for lower-tier and upper-tier

domestic oil). Gas: \$2/Mcf (National Gas Policy Act "indicator" price for intrastate gas reduced to reflect current market prices). Coal: No conversion figures have been provided due to the wide variation in coal prices throughout the country.

Source: Commerce Clearinghouse, State Tax Guide, §§45-200.

Mr. BUMPERS. Mr. President, I sincerely hope that my colleagues will look at this severance tax list in the RECORD tomorrow and see the difference between the States severance taxes. My State has a 2-cents-a-ton severance tax on coal. That is unbelievably low, but you will find that no State even remotely approximates the States of Montana and Wyoming when it comes to severance taxes on coal.

Mr. President, exculpatory words are never fully acceptable by those adversely affected by proposed legislation. Nevertheless, I want to state that this legislation is intended to be neither punitive nor provincial, but to prevent a precedent, which is left intact, would be terribly detrimental to this Nation's interests. I have the highest regard for my colleagues from Montana and Wyoming, both personally and professionally, and I have a deep and abiding respect for the people of these two States. But their interests must be the Nation's and the Nation's theirs.

I call upon all of my colleagues to support this legislation. It will prevent regional interest from creating burdens which consumers and national policy can ill afford to bear.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2695

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that, in order to alleviate the national energy emergency, reduce national dependence on petroleum imports, encourage the highest and best use of domestic petroleum and natural gas, and enhance interstate commerce by promoting increased reliance on our national reserves of coal for the generation of electricity and power, it is necessary to remove excessive burdens on production of coal used in powerplants and major fuel-burning installations.

Sec. 2. The Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. No. 8301 et seq.) is amended by adding immediately following section 807 the following new section:

"SEC. 808. COAL FOR POWERPLANT AND INDUSTRIAL CONVERSION.

"(a) Notwithstanding any other provision of State or Federal law, with respect to any coal mined or produced on Indian lands or lands owned by the Federal government which is destined for shipment in interstate commerce for use in any powerplant or major fuel-burning installation, the sum of all severance taxes or fees, in respect of any fiscal year, levied upon or collected from any taxpayer, by a State or any political subdivision thereof on such coal or on any improvements or other rights, property, or assets produced, owned, or utilized in connection with the production of such coal shall not exceed a total of 12½ per centum of the value of such coal produced during such fiscal year at the time it has been extracted and prepared for transportation free on board the production site, exclusive of all State and local taxes and fees.

"(b) For purposes of subsection (a), 'severance taxes or fees' include any tax or fee, by whatever named called, levied or collected upon coal or upon any improvements or other rights, property, or assets produced, owned, or utilized in connection with the production of coal except for in-

come, sales, property or other similar taxes or fees or general application which are not disproportionately imposed thereon."

• Mr. DURENBERGER. Mr. President, over the past decade the United States has become a virtual hostage to our dependence on imported oil. We all recognize that energy independence is a most important national goal that will require concerted effort and considerable cooperation from all Americans.

The people look to the Federal Government for the outlines of a consistent and sensible national energy policy. Congress has taken significant steps in the last 2 years to put such a policy in place. But in its detail this policy requires the voluntary conservation efforts of all citizens, a commitment to increased exploration and production from the energy producers, and a sense of urgency and national purpose in governments at all levels to get the job done.

Mr. President, today I rise to cosponsor a bill offered by Senator BUMPERS that illustrates the difficulty of arranging the details in a broad national energy policy. Most Americans realize that in the mid-term, coal and nuclear energy have an important role to play in achieving energy independence. Congress passed legislation to encourage greater use of coal as early as 1974. Coal was a central part of the new energy policy announced by the Carter administration in 1977. Congress passed the Powerplant and Industrial Fuel Use Act in 1978 to mandate coal use in new facilities. In 1979, the Senate authorized a synthetic fuels corporation to support the production of synthetic fuels from coal. And we are now considering new legislation from massive coal conversions at existing utility sites. Mr. President, it is clear that the commitment to coal as a midterm energy resource is a fundamental and important part of our national energy policy.

Despite the national commitment to coal utilization, several obstacles have impeded rapid conversion to this energy resource. To the extent that coal conversion is delayed by capital formation problems in the utility industry, the Federal Government may speed conversions through financial assistance. And we are considering this question now. The role of Federal regulation has been closely examined as a part of the debate on the Energy Mobilization Board. And the impact of transportation charges was recently debated as part of general reform in regulation of the railroad industry.

Mr. President, there is another impediment to coal utilization that deserves the attention of this Congress. That is the question of State and local taxes on coal production. It is fair to say that in some cases State severance taxes have become a real economic burden on the production and utilization of coal. The bill that Senator BUMPERS and I offer today, will bring this issue to the attention of the Congress. This legislation would place a limitation on State and local production taxes. It applies only to coal produced on Federal or Indian lands. The limitation is 12.5 percent.

Mr. President, as a Senator from Minnesota I represent consumers who are forced to pay utility bills that include the costs of unreasonable coal severance taxes imposed by other States. I also represent a State that is familiar with the mineral production tax issue. Two-thirds of the Nation's iron ore is taken from taconite mines in northeastern Minnesota. Minnesota's iron range is the foundation for America's steel industry. We have a production tax on taconite ore. It amounts to slightly more than 4 percent of the value of the ore extracted. At this level it provides fair compensation to the State and local communities for the impact of the mining industry. Minnesotans do not object to production taxes that are reasonably designed to offset the burden that an extraction industry can impose.

But, Mr. President, I could not come to the floor of the Senate and defend a taconite tax of 17 percent or 30 percent. If we had such a tax, and I cannot imagine Minnesotans contemplating such tax, I am sure that we would be called to answer questions of national purpose, for the steel industry which is dependent on the mineral wealth of Minnesota is an important national industry.

Because we are familiar with the mineral tax issue, because Minnesota contributes an important raw material resource to the national economy, and because it does so without seeking a windfall for the State treasury, it is appropriate for a Minnesota Senator to raise the severance tax issue in the Congress by cosponsoring this legislation.

As my colleagues know I have an interest in this issue broader than the coal severance tax of one or two States. My interest goes to the general question of fiscal disparities between the States as a result of mineral wealth. It was a question raised by the Danforth amendment to the windfall profits tax. It is seen as well in legislation to provide energy impact assistance. I am sure that it will be raised many more times as we work together to achieve energy independence.

Mr. President, I hope that debate and hearings on this bill will contribute to resolution of the broader questions in the spirit of cooperation between the States. We should much prefer an energy policy built on cooperation than one that divides the Nation along producer/consumer lines. ●

ORDER OF BUSINESS

Mr. BUMPERS. Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, this body finds itself in a very unusual position. In fact, seldom have there been instances similar to this in the history of the Senate.

Mr. President, reserving the right to be recognized immediately thereafter, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tem-

pore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMPLIANCE BY THE SOVIET UNION WITH THE CONVENTION ON PROHIBITION OF BIOLOGICAL WEAPONS

Mr. ROBERT C. BYRD, Mr. President, I have cleared this request with the distinguished minority leader (Mr. BAKER). Mr. PROXMIRE is here; Mr. JAVITS is on his way.

I ask unanimous consent that the Senate proceed for not to exceed 10 minutes to the consideration of Calendar Order No. 732.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 405) expressing the sense of the Senate with respect to compliance by the Soviet Union with the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. PROXMIRE, Mr. President, Senate Resolution 405 is intended to make one point. That point is that the Soviet Union must honor international conventions, treaties, and agreements to which it is a party. The resolution calls upon the U.S.S.R. to provide the United States with scientific data sufficient in quantity, quality, and timeliness to answer the outstanding questions regarding an apparent outbreak of anthrax in the Soviet city of Sverdlovsk in April 1979.

Article V of the 1972 Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction states as follows:

The States Parties to this Convention undertake to consult one another and to cooperate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention.

As recently as March 3-21 of this year, the nations which are parties to the convention met in Geneva to review its operation in order to assure that its objectives are being realized. This review, in which the Soviets participated fully, included an affirmation of the right of any part to the convention to request a consultative meeting of experts open to all parties. The Soviets agreed with this conclusion of the review conference.

Our request—that is, the U.S. request—of March 17 and our more formal demarche of March 28 merely seek to invoke our right under the convention to consult at the expert level on the report-

ed 1979 outbreak of anthrax in Sverdlovsk.

The Soviets have responded to our requests with unsatisfactory replies which seek to turn aside the need for consultations among experts.

The information known to us suggests that there is legitimate cause for concern over what happened in Sverdlovsk, a city closed to U.S. personnel. There are many reports of deaths. The Soviets themselves have admitted that an outbreak of anthrax occurred. They have attributed these outbreaks to the handling and consumption of infected meat. It is this aspect of the explanation which raised doubts, since the information available to the U.S. Government indicates that the deaths were a result of pulmonary anthrax, a form of the disease which is not transmitted by infected meat.

There may be a natural explanation for what happened in Sverdlovsk, but until this fact is satisfactorily established, prudence and caution should prevail. The possibility that an accident may have occurred in a biological warfare testing facility cannot be ruled out at present. In fact, the evidence is heavily weighted on the side of a violation of the Biological Convention.

The resolution does not seek to pre-judge the final answer. It merely serves to show both the President and the Soviets that this issue is too important to be relegated to routine bureaucratic handling by either side. It is an issue of concern to the entire international community. If the Soviets have nothing to hide, then talks among experts should be quickly convened. Delay only serves to increase tension. Hopefully, the expression of concern embodied in Senate Resolution 405, which 29 Senators have now cosponsored, will serve to alert the Soviets to the rising cost of continued delay.

Mr. President, I urge the adoption of the resolution.

Mr. President, I thank Senator CHURCH, chairman of the Foreign Relations Committee; Senator JAVITS, who is the ranking member; Senator PELL; and, in fact, the entire Foreign Relations Committee, which unanimously reported this resolution, for their excellent cooperation and their support in this matter.

I also thank two remarkable staff members that I have, I am proud to say: Ron Tamen, who is an outstandingly brilliant man, who called this to my attention; along with Charles Cecil, who is on loan from the State Department, working with us. These two gentlemen have worked hard on this matter. I think they have done a superlative job and deserve the thanks of the Senate.

Mr. THURMOND, Mr. President, will the Senator add my name as cosponsor?

Mr. PROXMIRE, Mr. President, I ask unanimous consent to have added as cosponsors the names of Senator THURMOND, Senator METZENBAUM, and Senator DECONCINI.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE, Mr. President, I yield to the Senator from New York.

Mr. JAVITS, Mr. President, this resolution renders a real service to the Sen-

ate and to the United States. I think we are all indebted to Senator PROXMIRE for originating it, as well as to his staff, to whom he has just paid such a tasteful tribute.

The reason, Mr. President, is twofold. One is the basic proposition, which is that we have a treaty of 1972 with the Soviet Union, which requires that there be no biological warfare weapons in the U.S.S.R. Therefore, this outbreak of anthrax, which is a characteristic biological weapon, is very concerning. It so happens that this is a matter of some personal experience with me as, during World War II, I served for several years as an Officer of the Chemical Corps of the U.S. Army, then called the Chemical Warfare Service.

I was a planning officer, and I have a pretty clear idea as to biological warfare weapons, as well as chemical warfare weapons, and know how serious could be a violation of this treaty.

So that is point one, that we have to hold the Soviet Union to a greater accounting than might otherwise be thought necessary in respect to that dread weapon.

Again, I call attention to the fact that this is an effective treaty between us in which no such weapon should exist in the Soviet Union.

The other point, in my judgment, is equally, if not more important. That is, it is my belief in respect to the foreign policy of the United States that in the years ahead we will at one and the same time be required to oppose the Soviet Union in its expansionist projects and plans and, at the same time, negotiate standstills and other arms limitation agreements if we are to have a world which will not kill itself by some form of international suicide.

Therefore, the dependence which we have no verification in terms of the treaties between the Soviet Union and ourselves, like this particular treaty on biological and toxic weapons, and on their destruction, becomes supremely important.

I say this because I know the Soviet Union listens very carefully to our debates, as we do to theirs. I hope they take note and take heed, because this is a matter of survival for us both, and for the rest of the world. They should understand very clearly the consequences if they fail to explain what requires explanation, because the idea that this anthrax was caused by some food poisoning simply has to be challenged. Our inquiries indicate that this is pulmonary, not gastric, anthrax, of which there was an outbreak in Sverdlovsk.

Anything can happen, Mr. President, and we are not charging anybody with anything. We are asking for an explanation.

I believe it entirely appropriate to take this matter to the Security Council where procedures allow exactly such an inquiry if the Soviet Union does not answer satisfactorily.

Mr. President, I point out that the Foreign Relations Committee makes no implications, no charges. We treated the matter with complete objectivity and in a completely correct way, as the diplo-

mats say, and let us see if we are treated the same way by the Soviet Union.

But it is critical to emphasize from the point of view of the Foreign Relations Committee that this is a critical matter, that there is a lot at stake, that it is not just an inquiry about some unfortunate incident which we can take or leave. We cannot, in this case. We have to find out why, in view of the presence of the treaty, and the essentiality that we check very carefully on any charges that the treaties have been violated or completely bypassed.

Mr. President, I yield.

Mr. PROXMIER. Mr. President, I thank my good friend from New York from the bottom of my heart. He has given exactly the right posture to this position of firmness, of insistence that we get an explanation, but very great care, indicating we do not make any charge, that we insist on getting the facts, which is exactly what we should do.

Mr. President, I ask unanimous consent that the name of the majority leader (Mr. ROBERT C. BYRD) be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, on April 29, by a vote of 12 to 0, the Foreign Relations Committee ordered favorably reported Senate Resolution 405. This resolution, submitted by Senator PROXMIER, expresses the sense of the Senate that the President should call on the Soviet Union to provide the necessary scientific information to resolve questions regarding the outbreak of anthrax near the city of Sverdlovsk last year. This is a reasonable and proper demand because the Soviet Union is obliged, under article V of the Convention on the Prohibition, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, to "cooperate in resolving any problems in relation to the objective of, or in the application of the provisions of, the convention." The resolution further calls on the President, "to undertake consultative and cooperative measures through appropriate international procedures, as provided by article V of the Convention, or, if necessary, to lodge a complaint with the Security Council of the United Nations, as provided by article VI of the Convention, if the Soviet Union fails to provide such data."

The Soviet Government has acknowledged that there was an outbreak of anthrax in Sverdlovsk in the spring of 1979. The Soviet Union contends, in its official response to questions raised bilaterally by the United States, that this outbreak was the result of natural causes, specifically from the ingestion of improperly handled meat. This explanation does not correspond to the information available to the United States, which indicates that the anthrax outbreak was of the pulmonary form, which would be caused by breathing spores released into the atmosphere. Moreover, the evidence indicates that the outbreak was the consequence of some kind of accident, such as an explosion, and was of such scale as to signify that the Soviet Union was

in possession of this deadly biological agent in amounts prohibited by the Convention.

Mr. President, the importance of a prompt and satisfactory resolution of the questions surrounding this terrible incident is clear. If the anthrax outbreak in Sverdlovsk, and the deaths of perhaps dozens or hundreds of Soviet citizens, was caused by illegal Soviet possession of stocks of pulmonary anthrax spores in violation of the Biological Weapons Convention, the implications for overall United States-Soviet relations and for existing and contemplated arms control agreements are profound. The Soviet Union must be under no illusion that public attention to this issue will wane and the question fade away to become the province of technical experts.

This resolution will be a clear demonstration to the Soviet Union that the Senate, as well as the administration, is determined that the United States will persevere in its efforts to get satisfactory responses to its questions. The U.S. faces several major and pressing foreign policy problems at this moment. But, we must not let our other preoccupations lessen our determination to find out whether the Soviet Union is violating its international obligations under the Biological Weapons Convention. Therefore, I support this resolution and urge the Senate to approve it.

The administration also shares the Foreign Relations Committee's desire that the Senate express itself on the need to resolve the Sverdlovsk incident. I submit a letter from Ambassador Ralph Earle of April 28, 1980, stating the administration's position to this effect to be printed in the RECORD.

The letter is as follows:

U.S. ARMS CONTROL AND
DISARMAMENT AGENCY,
Washington, D.C., April 28, 1980.

Hon. FRANK CHURCH,
U.S. Senate

DEAR MR. CHAIRMAN: Pursuant to the request of the Committee, I am transmitting the Administration's view with respect to S. Res. 405, pertaining to Soviet compliance with the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.

The United States believes that the Soviet Union should provide information concerning the outbreak of disease at Sverdlovsk, as provided for under Article V of the Convention. S. Res. 405 expresses the Senate's support for the Administration's request. The Administration therefore has no objection to this resolution.

Sincerely,

RALPH EARLE II. ●

CHEMICAL WARFARE SETS THE AGENDA FOR
MUSKIE'S MEETING WITH GROMYKO

Mr. DOLE. Mr. President, the Senator from Kansas joins with the distinguished Senators from Wisconsin (Mr. PROXMIER), South Carolina (Mr. HOLLINGS), Delaware (Mr. ROTH), Ohio (Mr. GLENN), South Dakota (Mr. McGOVERN), Rhode Island (Mr. CHAFEE), and many other distinguished Senators, in cosponsoring Senate Resolution 405, expressing the sense of the Senate with respect to compliance by the Soviet Union with the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological and Toxin Weapons.

This resolution is made at a particularly timely moment in the conduct of this administration's foreign policy, for the new Secretary of State, the distinguished and most recent former Senator from Maine, Mr. Muskie, is soon to meet with the Foreign Minister of the Soviet Union, Mr. Gromyko.

It is the feeling of this Senator that this resolution is a positive and constructive approach to addressing the recent reports of the development and use by the Soviets of chemical and biological weapons. In addition, this measure sends a message that the Congress of the United States will no longer tolerate the U.S.S.R.'s equivocation and reticence on this issue. This resolution represents a willingness to assume the responsibility for calling to the attention of the world community the Soviets' violation of international law, and it is the hope of the Senator from Kansas that Secretary Muskie will raise this grave and potentially far-reaching matter with the Russians and place it at the head of his agenda. Future negotiations must be predicated on their response. We cannot conduct business as usual as long as Soviet Russia violates past treaties blatantly.

THE TIME IS NOW

Mr. President, now is the time to set a precedent for future negotiations and agreements on chemical and biological warfare capabilities. As nations around the world begin to draw together into an increasingly interconnected relationship, respect for international law becomes of utmost importance. We have seen in Tehran what damage disrespect for international law can bring to political stability. We must have guidelines such as the Geneva treaty by which to measure and conduct international relations, but if we cannot rely on them, anarchy will result. While it is unfortunate that we are not able to undertake a more aggressive investigation into violations of the Geneva protocol of 1925, we can at least voice our opposition as a nation to these clear and aggressive violations of civilized values and of human rights.

It is the understanding of this Senator that the House Foreign Relations Committee has recently reported out a similar resolution for floor action, and therefore joins with us in this effort that is already past due. I think it is fair to say that my colleagues join with me in the feeling that the unified voice of the Congress is an effective and well reasoned first step in meeting this dangerous problem head on. I have spoken on this issue with great concern many times before, for I believe it is one of the gravest threats we face to world peace. At this time, I wish to make part of the RECORD remarks the Senator from Kansas made on May 6, addressing this issue:

The remarks follow:

STATEMENT BY SENATOR BOB DOLE
CHEMICAL WARFARE AND THE GENEVA
CONVENTION

Mr. Dole. Mr. President, for the past 2 months, I have spoken in this Chamber about atrocities committed in South Yemen, Vietnam, Cambodia and, most recently, Afghan-

stan, by the Soviet Union—atrocities with which we are only vaguely familiar and against which we have virtually no defense. I am speaking about the use of chemical warfare. The Senator from Kansas has repeatedly called upon the State Department and the administration to direct the U.N. Committee on Disarmament to begin an investigation of the Soviet role in Afghanistan with regard to chemical warfare. Unfortunately, in the wake of new developments in Iran, there has yet to be a serious attempt made by either the State Department or the administration to address the implications of this international crime.

I suppose the old cliché, "out of sight, out of mind" too often rings true. But it is the feeling of the Senator from Kansas that these blasphemies against humanity may not be out of sight for long if we continue to allow the suspected use of chemical and perhaps even biological warfare by the Russians to continue unquestioned.

A CAUTIOUS APPROACH

While it may have been wise at first to approach the issue cautiously when reports were still unproven on the use of nerve gas in Afghanistan, the accident at Sverdlovsk last spring makes it extremely difficult to ignore or deny the Soviets' chemical/biological venturism. When over one thousand citizens die within hours in one city, it becomes increasingly difficult to deny that biological research is being done. And when a government refuses to explain this ghastly occurrence to expectant conference members in Geneva, it becomes a deadly risk to continue to trust that government in critical negotiations.

The West has for too long assumed more than its share of responsibility for keeping channels of communication open with the Soviets. We have been misled, lied to, ignored and yet we have continued to jump at every opportunity that presented itself to concede to Soviet demands. The Soviet track record on agreements with the United States have been marked with deception and disrespect. They have stoically accepted our unilateral concessions, while snickering behind their hands. If this is to become the premise on which future negotiations are to be based, it is clear to the Senator from Kansas that the talks of long past are null and void and the prospect for future communication is gloomy.

BUSINESS AS USUAL IN SPITE OF LETHAL GAS

The administration has recently offered tough rhetoric against the Soviet Union since the invasion of Afghanistan opened their eyes to a long standing, tough reality. However, the President continues to offer ceilings on defense that allow little or no real growth after inflation. Vice President Mondale has publicly conceded the Soviets' use of "lethal gas." Yet, the administration has conducted its diplomatic relations in a business-as-usual fashion that some in the press have even gone so far as to suggest amounts to trying to "... cover up Soviet germ warfare capability. ..." While few can deny that politicking is an integral part of our system of government, overt attempts at manipulating world events to suit an administration's political needs is utterly without justification.

If Geneva is to be the site and occasion for communicating and negotiating on biological and chemical warfare, it seems that one of the basic goals of the conference should be to utilize that opportunity to ask some simple and direct questions on the way in which chemicals are being used and the extent to which they are being developed in participating countries. The inability and/or unwillingness of the Soviet Union to answer these questions makes the conference a farce and the questions a waste of time.

The Geneva conference is one of the few active communication conduits between the

west and the Kremlin since the invasion of Afghanistan. That, in itself, might seem enough to insure its continued viability and stature despite the costs. It is American policy to maintain the framework of United States-U.S.S.R. negotiations intact. However, a closer examination of this relationship reveals that we're building our future on shaky ground. Within the past year, over 1,000 have died mysteriously and quickly at Sverdlovsk. There has yet to be a satisfactory explanation of the deadly anthrax spores which caused the mass epidemic. The Soviets can ignore our questions as probing obtrusively into their internal affairs, but as fellow human beings, transcending nationality, we are owed an explanation.

Mr. President, as stated before on previous occasions, the Senator from Kansas does not suggest or condone a U.S. response in the form of development of our own chemical arsenals. Steps in this direction would virtually insure a U.S. fate similar to that of the Soviets. There is an appropriate and needed response, however—one which should be employed immediately. Once again, I call upon the administration and the State Department to analyze the facts and publicly recognize that we have a serious problem. Only then can we begin to structure an adequate defense against biological and chemical weapons. Tough rhetoric will do little if we continue to ignore this dangerous threat to our existence. A failure to react may be more fatal to America than the nuclear arms race that has received so much more attention and which we have feared for so long. ●

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 405) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Expressing the sense of the Senate with respect to compliance by the Soviet Union with the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

Whereas the United States and the Union of Soviet Socialist Republics are parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow on April 10, 1972;

Whereas article I of the convention prohibits each party to the convention from developing, producing, stockpiling, or otherwise acquiring or retaining certain microbial or other biological agents or toxins or certain weapons, equipment or means of delivery designed to use such agents or toxins; and

Whereas on March 17, 1980, the Government of the United States inquired of the Government of the Union of Soviet Socialist Republics as to the nature of an outbreak of pulmonary anthrax near the city of Sverdlovsk, Union of Soviet Socialist Republics, during April 1979 and has not received a satisfactory reply: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should—

(1) urge and request the Government of the Union of Soviet Socialist Republics promptly to exchange such scientific data as may be necessary to resolve any dispute regarding the nature of the outbreak of pulmonary anthrax near Sverdlovsk, Union of Soviet Socialist Republics, as provided for by article V of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction; and

(2) undertake consultative and cooperative measures through appropriate international procedures, as provided by article V of the convention, or, if necessary, lodge a complaint with the Security Council of the United Nations, as provided by article VI of the convention, if the Government of the Union of Soviet Socialist Republics fails to make available such data.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President with the request that such copy be further transmitted to the Government of the Union of Soviet Socialist Republics.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. PROXMIER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOFT DRINK INTERBRAND COMPETITION ACT

The ACTING PRESIDENT pro tempore. The clerk will state the pending business before the Senate.

The legislative clerk read as follows:

A bill (S. 598) to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I am going to address myself at this point to the issue that is before the Senate, on why we find ourselves engaged in an anomalous situation.

We in the Senate are presently awaiting the tolling of the hours with respect to the cloture motion that has been filed. In the past, cloture has almost with no exception, almost with no exception, always been used to cut off a filibuster, when somebody insisted upon talking and using dilatory amendments in order to drag out the debate. That has been the normal procedure, and because of that we have had cloture made possible when 60 Members of the Senate vote to cut off debate, that it could be done, and there was a limit placed as to what could occur thereafter.

As a matter of fact, not only did we have a limit as to what could occur with reference to the subject debate, but we also provided that no nongermane amendments could be made after cloture had been invoked.

Now, what do we have? Now we have a filibuster taking place on the floor of the U.S. Senate, not by anyone attempting to drag out the debate, because I am certainly not attempting to do that.

We have a filibuster taking place to preclude this Senator from calling up a nongermane amendment. That is what it is all about.

If we call up the nongermane amendment and if they did not like it, wanted to cut off debate, I certainly would not discuss it for more than 15 minutes.

As a matter of fact, I agreed yesterday that I would be willing to call up the amendment and have a vote on it

without any debate, because everybody knows what the issue is in Illinois Brick.

What is really occurring on the floor of the Senate at the moment is that the consumers of America, the people of America, are being foreclosed. People are being told that we are going to pass a carving out of the antitrust exemption for the bottlers—a well-heeled, well-financed, well-organized lobbying group. They have done a great job. They have done such a great job that they have 80 cosponsors, and I salute them for their efforts. But the fact is that an amendment then was called up and an amendment in the second degree to that amendment was called up, which precludes this Senator from calling up a nongermane amendment.

There is no question that this is a filibuster. The first thing I said when I came to the floor yesterday was, "Let's agree on the amendment pending and the amendment in the second degree. Let us accept them." I am prepared to accept them now. I am prepared to accept them at any point. But the fact is that the authors of the amendment and the amendment in the second degree do not want to do that, because part of this preconceived, premeditated effort is to keep this Senator from calling up the so-called Illinois Brick amendment.

The Illinois Brick amendment is a pro-consumer amendment, and the bottlers' bill is an anticonsumer proposal. But the consumers of this country do not have as effective a lobby as does the bottlers bill. The consumers do not have anybody to be here saying, "Look, we want Illinois Brick. We want to overturn the action of the Supreme Court because it is unfair." No, there is nobody around to say that—although I will say that a lot of Senators have indicated that.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD the names of the 22 cosponsors of the Illinois Brick bill, of which one, as was pointed out yesterday, is my very distinguished friend, my good friend, the Senator from Alabama, and he has been a strong supporter of that matter.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

SENATE COSPONSORS OF ILLINOIS BRICK BILL

Kennedy, Metzenbaum, Danforth, Morgan, Stafford, Bayh, Domenici, Durkin, Culver, Riegle, Tsongas, Levin, Proxmire, Leahy, Exon, Nelson, Hart, Williams, Ribicoff, Matsunaga, Pell, and Moynihan.

Mr. METZENBAUM. Mr. President, they do not want me to call up that measure because somebody might filibuster against Illinois Brick. I am not going to filibuster against Illinois Brick. I have said that I am willing to have the amendment called up, with no debate. I am willing to agree to an hour's debate, a half-hour's debate. I am willing to call it up in the middle of the night, in the middle of the afternoon, or in the middle of the morning. I could not care less. The Members of the Senate are being precluded, by a filibuster, from having an opportunity to vote on that amendment.

It is a sad day; it is truly a sad day. I have gone back and looked into the

records, and I have found an instance when Senator Mansfield was the majority leader when this procedure was used. I think it was used under Senator Johnson on some occasions. I am told—but I have not been able to confirm the fact—that it has been used under the present majority leadership.

But that is not what cloture is all about. Cloture, historically, was intended to cut off a filibuster. Cloture, in laying down a first-degree amendment and a second-degree amendment, was not intended to keep a Senator from calling up an amendment that was nongermane.

I say to my fellow Senators that today it is against me that this procedure is being used, but perhaps tomorrow it will be used against the Jesse Helmses, the Orrin Hatches, the Jake Garnses, the Strom Thurmonds, and many others who have seen fit to come to this floor and make their point, even though oftentimes they were not in the majority.

I am not saying this to be critical of any of those Senators. I want to make that very clear. I am saying that today we have a new procedure—not totally new, but not used very often—to preclude a Senator from calling up a nongermane amendment, by filing a cloture motion and immediately thereafter calling up an amendment in the first degree and an amendment in the second degree.

Mr. President, I should like to talk about what is in the amendment I want to call up, and I will discuss it at some length, to indicate how the people of this country are getting the short end of the stick, as we proceed here today.

Mr. President, let us talk about what the substantive question is. We know what the procedural question is.

We understand that a filibuster is being conducted against a Member of the Senate calling up a nongermane amendment, a proconsumer amendment, while this body moves forward, hellbent for election, to pass an anticonsumer piece of legislation.

I have repeatedly stated during the consideration of this bill, in committee and on the floor of the Senate, that the exemption from the antitrust laws provided by this legislation for the bottling industry sets an extremely dangerous precedent. If we in this body do not make absolutely clear our commitment to preserving and strengthening the antitrust laws, then I believe we can look forward to a procession of other industries coming to Congress to seek the same special treatment that this bill provides to the bottlers. It is for that reason, in order that we may indicate our true commitment to substantially strengthening our ability to make the antitrust laws work, that I have attempted to call up the Illinois Brick amendment.

The amendment I hope to call up—but at this point I am being precluded from doing so—is based on legislation that was reported last year by the Judiciary Committee, and it would reverse some of the very negative results of the Supreme Court's Illinois Brick decision.

Mr. President, the Illinois Brick decision bars indirect purchasers from bringing private damage actions against an

antitrust violator. What has it done? It has turned the antitrust laws upside down.

It bars those truly injured by antitrust violations from obtaining judicial relief, while providing windfall profits to middlemen who suffer no injury. I will illustrate what I am talking about.

Assume, for a moment, that manufacturers of drugs, hardware products, household appliances—you name it; take just a few examples—agree among themselves, and there is no question that they sit down and work out an agreement, to fix the prices of their products at levels higher than those products could command in a competitive market. Other customers—the retailers and wholesalers—purchase these products at the inflated prices and mark them up for resale to the consumer. There is no question that there are overcharges, no question that it has come about by reason of a preconceived conspiracy to set prices. In this manner, most or all of the illegal overcharges are passed on to the ultimate consumer.

What happened? The Supreme Court ruled in the Illinois Brick case that these consumers are barred from recovering because they are not direct purchasers. The middlemen, on the other hand—the wholesale jobbers, the people who actually do the selling to the stores—can collect treble damages from the antitrust violator, even though they have suffered no injury. It may be a store; it may be a wholesale jobber; but it is not the ultimate consumer.

Who are these ultimate consumers deprived of remedy by the Illinois Brick decision?

They are average citizens. They are the little people of America. They are people who always get it in the neck. They are the small businessmen. It is that group of people about whom we always speak how we want to help the small businessman, how the bottlers bill is going to help the small businessman. The bottlers bill may help a small group of small businessmen, but the Illinois Brick amendment will help a large group of small businessmen.

The other people who will really be hurt are the individual consumers.

Let us not forget the taxpayer. The taxpayers whose tax dollars are wasted on illegal overcharges paid by the State and Federal agencies for goods they consume will also pay the bill.

Balance the budget, save local governments money, save the State governments money, oh, yes, do all those things in the rhetoric but when it comes to Illinois Brick, which really has to do with savings and economies of purchase, and rolling back the rising tide of inflation for governmental agencies, oh, no, we are not going to let the Illinois Brick amendment come up because it is nongermane. But the fact is the rules of the Senate provide that I am entitled to bring up this amendment at this moment. But by reason of the filibuster that is taking place, by reason of utilization of the rules of the Senate in order to preclude that which is actually contemplated by the rules of the Senate, the Illinois Brick amendment cannot get to the floor.

Testimony last year before the Judiciary Committee revealed, for example, that 90 percent of State government purchases were made through middlemen. Over the last 15 years, and I emphasize this point, States have recovered hundreds of millions of dollars in antitrust suits, most of which would have been barred had the ruling in Illinois Brick been applied.

Let me read a portion of a letter from the first assistant attorney general of the antitrust section, the State of Colorado, addressed to the National Association of Attorneys General. It says:

As we have discussed, the Illinois Brick rule has had a serious impact upon one very important segment of governmental purchasers, public schools. In a great number of treble damage class actions brought over the past several years, public school districts and boards of education were among the highest volume purchasers of the products at issue in the litigation. By deciding that indirect purchasers of price-fixed items could not sue for damages under the federal antitrust laws, the Supreme Court effectively cut off this large body of tax supported institutions from recovering overcharges for illegal collusive conduct, since schools almost always purchase indirectly.

For this reason,

He continues in his letter:

among many others, the Illinois Brick legislation is absolutely crucial to States and local governmental entities.

He goes on to say in his letter:

I have compiled a list of school districts, colleges, and other institutions of education which received substantial (over \$2,000) recoveries in the recent Master Key Antitrust settlement. Not one cent of this recovery would have been possible had the Illinois Brick ruling applied to that case.

I emphasize this to my fellow Senators:

Not one cent of this recovery would have been possible had the Illinois Brick ruling applied to that case.

He carries on:

The Master Key litigation was a Sherman Act case for price fixing by manufacturers of finish hardware and Master Key systems which were sold, indirectly, to large numbers of governmental entities as well as private contractors. The case was settled during trial in September 1976 but the fund was not distributed until earlier this month.

He goes on then to indicate by dollar amount the school districts that will benefit and he goes on to talk about the totals: \$216,000 for Alabama, \$1,617,000 for California, \$419,000 for Florida, \$355,000 for Georgia, \$832,000 for Illinois, and the list continues on, including my own State, \$711,000 for my own State; for the State of Indiana, \$430,617; \$858,000 for Pennsylvania, a total in that one case of \$15,387,546.89.

All of this would have been foreclosed under the Illinois brick decision which my amendment would overturn and which would rectify and correct.

Mr. President, I ask unanimous consent that the entire letter as well as the entire list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE STATE OF COLORADO,
DEPARTMENT OF LAW,
May 30, 1979.

Re Illinois Brick.
Ms. LYNNE ROSS,
National Association of Attorneys General,
Hall of the States, Washington, D.C.

DEAR LYNNE: As we have discussed, the Illinois Brick rule has had a serious impact upon one very important segment of governmental purchasers, public schools. In a great number of treble damage class actions brought over the past several years, public school districts and boards of education were among the highest volume purchasers of the products at issue in the litigation. By deciding that indirect purchasers of price-fixed items could not sue for damages under the federal antitrust laws, the Supreme Court effectively cut off this large body of tax supported institutions from recovering overcharges for illegal collusive conduct, since schools almost always purchase indirectly. For this reason, among many others, the Illinois Brick legislation is absolutely crucial to states and local governmental entities.

I have compiled a list of school districts, colleges, and other institutions of education which received substantial (over \$2,000) recoveries in the recent Master Key Antitrust settlement. Not one cent of this recovery would have been possible had the Illinois Brick ruling applied to that case. The Master Key litigation was a Sherman Act case for price fixing by manufacturers of finish hardware and Master Key systems which were sold, indirectly, to large numbers of governmental entities as well as private contractors. The case was settled during trial in September 1976 but the fund was not distributed until earlier this month.

As you will see from the attached compilation, many of the recoveries of even small school districts were substantial and affected every part of the nation. Also, I am providing a list of "category codes" for distribution of the fund which was provided me by counsel for the states in the case. The second page points out the varying percentages for distribution to school districts across the nation. I hope this information will be of value to you in pointing out to others the importance of the Illinois Brick legislation being considered by the Congress at the present time.

Best personal regards.

B. LAWRENCE THEIS,
First Assistant Attorney General,
Antitrust Section.

STATE SCHOOL DISTRICTS AND INSTITUTIONS OF
HIGHER EDUCATION RECEIVING OVER \$2,000
FROM THE MASTER KEY SETTLEMENT DISTRIBUTION

ALABAMA	
Auburn University.....	\$4,693.57
University of Alabama.....	4,375.74
University of Alabama in Birmingham.....	3,516.61
Baldwin County School District.....	2,558.67
Jefferson County School District.....	8,802.57
Birmingham City School District.....	8,578.63
Huntsville City School District.....	5,470.73
Mobile County School District.....	11,335.65
Montgomery County School District.....	6,222.82
Tuscaloosa County School District.....	2,109.45
ALASKA	
Anchorage School District.....	12,017.07
North Star Borough School District.....	3,080.13

ARKANSAS	
Arkansas State University.....	\$2,191.52
University of Arkansas at Fayetteville.....	4,061.64
University of Arkansas at Little Rock.....	2,637.44
Fort Smith School District.....	2,028.21
Little Rock School District.....	3,309.87
Pulaski County Special School District.....	4,515.24
ARIZONA	
Mesa School District No. 4.....	2,389.09
Scottsdale School District No. 48.....	3,831.96
Glendale UHS No. 205.....	2,724.44
Phoenix UHS No. 210.....	5,574.05
Scottsdale HS No. 212.....	3,833.81
Tucson School District No. 1.....	5,384.87
Tucson School District No. 101.....	6,493.41
Yuma UHS No. 70.....	3,717.89
CALIFORNIA	
Hayward Unified School Dis- trict.....	2,082.77
Livermore Valley Joint Unified School District.....	2,629.91
Oakland City Unified School District.....	3,940.25
Berkeley City Unified School District.....	2,171.87
Fremont Unified School Dis- trict.....	5,302.51
Mt. Diablo Unified School District.....	7,796.24
Richmond Unified School Dis- trict.....	3,615.97
San Ramon Valley Unified School District.....	2,358.65
Fresno Unified School Dis- trict.....	5,761.65
Kern County Joint Unified School District.....	4,478.82
Baldwin Park Unified School District.....	2,354.47
Charter Oak Unified School District.....	2,005.11
Bassett Unified School Dis- trict.....	2,130.95
Beverly Hills Unified School District.....	3,173.76
Bonita Unified School Dis- trict.....	2,052.19
Claremont Unified School Dis- trict.....	2,023.15
Compton Unified School Dis- trict.....	3,945.97
Covina Valley Unified School District.....	2,375.15
Glendale Unified School Dis- trict.....	6,008.94
Hacienda La Puente Unified School District.....	4,686.06
Las Virgenes Unified School District.....	2,665.55
Long Beach Unified School District.....	3,375.06
Los Angeles Unified School District.....	100,254.17
Norwalk-La Miranda City Unified School District.....	2,420.47
Palos Verdes Peninsula Uni- fied School District.....	7,132.27
Pasadena Unified School Dis- trict.....	3,684.39
Pomona Unified School Dis- trict.....	4,132.31
Rowland Unified School Dis- trict.....	4,187.09
Santa Monica Unified School District.....	2,912.18
Torrance Unified School Dis- trict.....	5,887.71
Whittier Union High School District.....	2,371.63
Wm. S. Hart Union High School District.....	2,648.39
Novato City Unified School District.....	2,040.97

Anaheim UN High School District	\$10,163.03	Oak Grove Elementary School District	\$2,553.79	FLORIDA	
Capistrano Unified School District	3,188.28	Palo Alto City Unified School District	2,450.83	Broward Community College	2,147.31
Cypress Elementary School District	2,746.29	San Jose Unified School District	6,039.52	Florida Junior College	4,385.16
Fountain Valley School District	3,699.57	Santa Clara Unified School District	4,111.19	Miami-Dade Comm.	4,692.35
Fullerton UN High School District	3,464.16	Santa Cruz City Elementary School District	2,038.55	St. Petersburg Jr. College	2,724.05
Garden Grove Unified School District	10,145.87	Santa Rosa City Elementary & High School District	2,300.57	Valencia Comm. College	2,145.66
Huntington Beach Union School District	6,108.60	Modesto City Elementary & High School District	2,362.61	Florida International University	2,702.55
Newport-Mesa Unified School District	3,950.15	Simi Valley Unified School District	8,608.27	University of Florida	7,485.20
Ocean View Elementary School District	5,779.03	Oxnard Unified High School District	3,838.83	Florida State University	5,243.15
Orange Unified School District	7,561.94	Ventura Unified School District	2,055.71	Florida Tech. University	2,638.37
Placentia Unified School District	4,701.90	Cabrillo College	2,022.71	University of South Florida	5,687.48
Santa Ana Unified School District	3,595.95	Cerritos College	2,635.63	Duval County School District	12,025.47
Tustin Unified School District	6,298.46	El Camino College	3,792.19	Alachua County School District	2,442.59
Westminster Elementary School District	2,819.78	Citrus College	2,068.25	Marion County School District	2,443.04
Alvard Unified School District	2,131.61	Los Angeles City College	13,703.53	Seminole County School District	3,911.77
Corona-Norco Unified School District	4,140.23	Foot hills College	7,559.30	Escambia County School District	4,953.49
Riverside Unified School District	3,871.61	Grossmont College	2,425.31	Leon County School District	2,436.69
Elk Grove Unified School District	2,241.83	Monterey Peninsula College	2,107.41	Bay County School District	2,244.46
Folsom-Cordova Unified School District	2,949.36	College of Marin	2,499.01	Okaloosa County School District	2,856.55
Sacramento City Unified School District	11,789.07	Riverside City College	3,776.35	Volusia County School District	4,062.69
San Juan Unified School District	6,064.60	Orange Coast College	2,126.33	Brevard County School District	5,635.71
Chaffey Union High School District	2,409.03	Pasadena City College	3,577.91	Orange County School District	9,243.02
Ontario-Montclair Elementary School District	2,430.37	College of San Mateo	8,140.54	Broward County School District	15,534.06
Redlands Unified School District	2,818.02	Shasta College	2,873.02	Sarasota County School District	2,753.97
Rialto Unified School District	2,041.41	Ventura College	4,302.59	Palm Beach County	8,025.42
San Bernardino City Unified School District	8,417.53	Washington High School	2,070.45	Pinellas County School District	10,187.37
Chula Vista City Elementary School District	2,016.33	South County Community College	3,964.89	Hillsborough Co. School District	12,689.65
Grossmont Union High School District	2,429.93	Hudson Elementary School	3,337.66	Dade County School District	33,958.37
San Diego City Unified School District	16,088.58	Excelsior High School	2,916.14	Manatee County School District	2,283.83
Sweetwater Union High School District	3,091.04	Costa Mesa Elementary School	2,936.60	Pasco County School District	2,690.31
San Francisco City Unified School District	8,548.01	San Joaquin Elementary School	2,845.96	Lee County School District	3,228.75
Jefferson Union High School District	4,342.42	North Orange Community College	2,897.44	Polk County School District	6,662.90
Laguna Salada Elementary School District	2,365.91	Los Rios Community College	3,580.77	Sarasota County School District	2,753.97
San Mateo City Elementary School District	2,405.51	Sweetwater Community College	2,097.51	GEORGIA	
San Francisco Unified School District	4,010.87	Jefferson Elementary School	2,164.17	Georgia State University	8,883.05
Lompoc Unified School District	3,626.09	COLORADO		Georgia Institute of Technology	4,742.12
Santa Barbara City Elementary & High School District	4,233.73	Colorado State University	6,044.32	University of Georgia	9,618.68
Alum Rock Union Elementary School District	3,720.47	University of Colorado	5,704.04	Columbus College	2,152.77
Campbell Union High School District	4,549.88	University of Colorado Medical Center	7,525.32	Georgia Southern College	2,895.05
Cupertino Elementary School District	5,507.55	University of Northern Colorado	3,156.89	Valdosta State College	2,240.62
East Side Union High School District	4,790.78	Northglenn—Thornton School District	3,773.22	West Georgia College	2,217.23
Franklin-McKinley Elementary School District	2,100.81	Westminster School District	2,910.51	Atlanta City Schools	14,614.35
Fremont Union High School District	5,112.64	Cherry Creek School District	3,497.85	Bibb County Schools	5,114.48
Milpitas Unified School District	2,572.27	Littleton School District	3,485.54	Chatham County Schools	6,353.48
Moreland Elementary School District	2,122.81	Adams—Arapahoe School District	4,129.37	Clayton County Schools	6,255.13
Union Elementary School District	2,680.29	St. Vrain Valley School District	2,888.80	Cobb County Schools, Marietta	9,891.81
		Boulder Valley School District	4,490.34	Dekalb County Schools	15,813.19
		Denver County School District	13,707.69	Dougherty County Schools	4,052.71
		Colorado Springs School District	6,613.03	Douglas County Schools	2,108.54
		Jefferson County School District	15,923.57	Fulton County Schools	6,682.95
		Poudre School District	2,817.37	Gwinnett County Schools	5,603.87
		Mesa County Valley School District	2,742.44	Hall County Schools	2,167.80
		Pueblo School District	4,437.99	Houston County Schools	2,983.09
		DELAWARE		Muscogee County Schools	6,515.00
		Delaware Technical and Community College	4,682.00	Richmond County Schools	6,234.43
		University of Delaware	7,680.50	HAWAII	
		Caesar Rodney School District	2,905.21	University of Hawaii	11,915.12
		Capitol School District	2,540.29	Department of Education, Honolulu District	10,804.75
		Indian River School District	2,630.54	Department of Education, Central District	8,764.17
		New Castle County School District	27,836.06	Department of Education, Leeward District	8,222.91
				Department of Education, Windward District	5,818.93
				Department of Education, Hawaii District	4,586.14
				Department of Education, Maui District	3,333.42

IDAHO		IOWA		Fayette County Schools	
University of Idaho	\$2,426.92	Area Education Agency II		Jefferson County Schools	\$6,917.87
Boise State University	2,826.74	Ankeny IA	\$2,050.63	Louisville	23,910.81
Boise City School District	3,545.62	Cedar Rapids Comm. School District	4,830.31	K2 Kenton County Schools	2,216.61
ILLINOIS		Council Bluffs Comm. School District		Pike County Schools	3,227.73
Belleville Area College	2,632.24	Davenport Comm. School District	2,729.81	LOUISIANA	
Black Hawk College Quad-Cities	2,335.20	Des Moines Independent Comm. School District	4,884.22	Louisiana St. University	13,310.31
City College of Chicago	16,251.69	Dubuque Community School District	8,163.03	Louisiana Tech. University	2,551.31
College of Du Page	4,607.06	Sioux City Community School District	2,783.06	Northeast Louisiana University	2,549.63
College of Lake County	2,567.18	Waterloo Community School District	3,506.11	Southern Unit Agricultural Southern Branch	2,312.83
Eastern Illinois University	2,831.41	INDIANA		University of N.O. New Orleans	4,091.51
Illinois Central College	3,306.78	Ball State University	7,626.00	University of Southwestern	3,951.95
Illinois State University	5,833.16	Indiana State University	5,014.90	Delgado Vocational Technical College	2,897.09
Joliet Junior College	2,446.49	Indiana University at Bryan Hall	14,307.60	Pres-Acadia Par School Board	2,082.31
Moriane Valley Comm. College	2,981.21	Indiana University Northwest	2,097.83	Pres. Bossier Par School Board	3,404.06
Northeastern Illinois University	2,715.27	Indiana University—Purdue University	9,125.38	Pres-Caddo Par School Board	9,072.41
Oakton Comm. College	3,336.74	Indiana University at South Bend	2,541.13	Pres-Calcasieu Par School Board	6,695.29
Rock Valley College	2,223.92	Indiana University—Purdue University	4,015.74	Pres-E Baton Rouge Par School Board	13,051.02
Southern Illinois University at Carbondale	6,310.81	Purdue University Main Campus	13,122.43	Pres-Iberia Par School Board	2,903.05
Southern Illinois Edwardsville	3,569.29	Purdue University Calumet Campus	2,989.64	Pres-Jefferson Par School Board	12,687.59
Thornton Comm. College	2,362.31	Fort Wayne Community Colleges	8,716.43	Pres-Lafayette Par School Board	5,188.75
Triton College	6,612.42	East Allen County Schools	2,691.99	Pres-Lafousche Par School Board	3,419.86
University of Illinois	6,064.00	School Corporation Bartholomew Consolidated	2,975.61	Pres-Livingston Par School Board	2,262.18
University of Illinois, Urbana, Ill.	9,573.65	Greater Clark County Schools	2,969.96	Pres-Orleans Par School Board	16,810.44
Western Ill. University	4,207.02	Muncie Community School Corp.	3,223.29	Pres-Quachita Par School Board	3,662.55
William Rainey Harper College	4,169.64	Elkhart Community School Corp.	3,013.80	Pres-Rapids Par School Board	4,976.59
Alton Public Schools	2,663.49	New Albany-Floyd Co. Cons. Schools	2,858.55	Pres-St. Bernard Par School Board	2,195.85
Aurora (East) Public Schools	2,127.17	Marion Community Schools	2,288.60	Pres-St. Landry Par School Board	3,736.26
Aurora (West) Public Schools	2,277.09	Kokomo-Center TWP Con. Schools	2,554.59	Pres-St. Tammany Par School Board	3,626.05
Champaign Public Schools	2,381.52	Gary Community School Corporation	8,176.54	Pres-St. Mary Par School Board	2,699.31
City of Chicago Public Schools	120,180.22	School City of Hammond	4,050.19	Pres-Trangipahoa Par School Board	2,806.19
Comm. Cos (Arlington Hts.)	2,388.85	Michigan City Area Schools	2,519.79	Pres-Terrebonne Par School Board	4,069.33
Decatur Public Schools	4,142.34	Anderson Community School Corp.	3,986.23	MAINE	
Dundee Public School	2,878.46	KANSAS		University of Maine at Orono	3,634.40
E. Saint Louis Public Schools	5,169.49	Kingman USD No. 331	2,007.67	University of Maine, Portland	2,650.43
Elgin Public Schools	5,799.23	Emporia State University	11,336.57	MARYLAND	
Elmhurst 205 Public School	2,401.33	Coffeyville Community Junior College	3,086.12	Anne Arundel Community College	2,122.58
Evanston Elementary	2,028.62	USD No. 405	4,459.95	Catonsville Community College	3,113.42
Granite City Public Schools	3,044.03	USD No. 259	18,340.89	Community College of Baltimore	2,930.88
Harlem Public Schools	2,045.00	Johnson County Community College	12,667.55	Essex Community College	3,075.95
Maine TWP High Public Schools	2,820.01	USD No. 345	2,425.69	Montgomery College	4,857.48
Moline Public Schools	2,626.32	University of Kansas	17,899.98	Prince George's Community College	3,788.50
Naperville Comm. Unit	2,467.11	Dodge City Community Junior College	2,306.66	Morgan State University	2,025.23
Palatine Public Schools	2,751.78	Barton County Community College	2,629.66	Towson State University	4,918.97
Peoria 150 Public Schools	5,412.83	USD No. 475	2,986.70	University of Maryland	15,660.63
Quincy Public Schools	2,156.03	KENTUCKY		Allegany County Public Schools	3,656.24
Rock Island Public Schools	2,456.11	Eastern Kentucky University	4,775.00	Anne Arundel County Schools Superintendent	18,254.17
Rockford Public Schools	9,077.79	Moorehead State University	2,676.26	Baltimore City Public Schools Superintendent	36,712.72
Schaumburg Public Schools	3,893.38	Murray State University	2,951.24		
Springfield Public Schools	4,734.17	Northern Kentucky University	2,238.70		
Thornton TWP High	2,583.03	University of Kentucky	7,961.28		
Township HS Public Schools	2,514.56	University of Kentucky Comm. College System	6,077.79		
Township HS (Mt. Prospect)	4,728.55	University of Louisville	5,761.11		
Valley View Comm. Unit	2,272.93	Western Kentucky University	4,731.18		
Waukegan Comm. Unit Public School	3,301.55	Christian County Schools	2,100.73		
Wheaton Comm. Unit District 200	2,741.75				
M.S.D. of Lawrence Township	2,140.58				
M.S.D. of Perry Township	2,853.35				
M.S.D. of Warren Township	2,367.47				
M.S.D. of Washington Township	2,956.40				
M.S.D. of Wayne Township	2,766.34				
Indianapolis Public Schools	17,670.37				
Monroe County Community School Corp.	2,768.15				
Portage Township Schools	2,208.82				
South Bend Comm. School Corp.	6,673.25				
Lafayette School Corp.	2,032.33				
Evansville Vanderburgh School Corp.	6,205.00				
Vigs County School Corp.	4,783.53				
Warrick County School Corp.	2,087.69				
Richmond Comm. School Corp.	2,246.56				

Superintendent, Baltimore County Public Schools.....	\$27,338.43
Carroll County Public Schools.....	4,874.50
Cecil County Public Schools.....	3,217.10
Charles County Public Schools.....	4,278.52
Frederick County Public Schools.....	5,666.17
Harford County Public Schools.....	8,104.63
Howard County Public Schools.....	6,138.37
Montgomery County Public Schools.....	27,175.08
Prince George's County, Public Schools.....	33,654.63
St. Mary's County Public Schools.....	2,970.50
Washington County Public Schools.....	5,401.48
Wicomico County Public Schools.....	3,168.84
MASSACHUSETTS	
Nauset Regional School District.....	2,899.78
Downey Elementary School.....	2,302.90
Brockton High School.....	7,033.24
King Phillip Regional School District.....	2,258.40
Peabody Public Schools.....	2,586.75
Olney School.....	3,691.10
Lee School.....	3,850.12
Hart-Dean School.....	2,077.62
Marshall School.....	3,145.06

MICHIGAN	
Central Michigan University.....	4,987.62
Eastern Michigan University.....	5,665.94
Ferris State College.....	3,096.69
Grand Valley State Colleges.....	2,350.42
Michigan State University.....	13,637.72
Northern Michigan University.....	2,596.37
Oakland University.....	3,018.76
University of Michigan.....	14,012.11
Wayne State University.....	10,453.75
Western Michigan University.....	6,556.54
Delta College.....	2,851.67
Grand Rapids Community College.....	2,342.94
Henry Ford Community College.....	5,284.70
Jackson Community College.....	2,028.09
Kalamazoo Valley Community College.....	2,023.11
Lansing Community College.....	5,708.65
Macomb Community College.....	7,803.14
C. S. Mott Community College.....	2,819.57
Oakland Community College.....	6,232.97
Schoolcraft College.....	2,952.05
Washtenaw Community College.....	2,327.04
Wayne Community College.....	4,866.05
Albion Public Schools.....	2,151.75
Ann Arbor Public Schools.....	4,151.83
Battle Creek Public Schools.....	2,151.75
Bay City Public Schools.....	3,377.98
Benton Harbor Area Schools.....	2,336.80
Birmingham City School District.....	2,646.82
Dearborn City School District.....	3,706.84
Detroit City School District.....	54,021.95
East Detroit City School District.....	2,162.96
Farmington Public School District.....	3,159.78
Flint City School District.....	8,703.10
Grand Rapids City School District.....	8,945.15
Grosse Pointe Public Schools.....	2,349.68
Highland Park Community Schools.....	2,035.85
Huron Valley Schools.....	2,517.33
Jackson Public Schools.....	2,602.46
Kalamazoo City School District.....	3,544.00

Lansing Public Schools.....	\$7,001.59
Lapeer Community Schools.....	2,067.33
Livonia Public Schools.....	6,324.33
Midland Public Schools.....	2,608.19
Monroe Public Schools.....	2,070.91
Plymouth Canton Community School.....	3,852.54
Pontiac City School District.....	5,118.60
Port Huron Area School District.....	3,642.93
Portage Public School District.....	2,357.31
Rochester Community College.....	2,514.94
Roseville Community Schools.....	2,340.86
City of Royal Oak School District.....	2,737.92
Saginaw City School District.....	4,367.89
Southfield Public School District.....	2,693.80
Taylor School District.....	4,630.45
Traverse City School District.....	2,358.51
Troy Public School District.....	2,843.32
Utica Community Schools.....	6,827.74
Walled Lake Consolidated Schools.....	2,659.70
Warren Community Schools.....	6,996.58
Waterford School District.....	3,936.49
Wayne-Westland Community Schools.....	5,304.37

MINNESOTA	
Minneapolis Special School District No. 1.....	12,107.54
Anoka Independent School District No. 4.....	8,104.62
Burnsville Independent School District No. 191.....	2,752.57
Rosemont Independent School District No. 196.....	2,758.41
Bloomington Independent School District No. 271.....	4,757.21
Edina Independent School District No. 273.....	2,232.88
Hopkins Independent School District No. 274.....	2,088.42
Osseo Independent School District No. 279.....	3,722.90
Robinsdale Independent School District No. 281.....	5,501.33
Rochester Independent School District No. 535.....	3,698.02
Moundsview Independent School District No. 621.....	3,585.30
North St. Paul-Maplewood Independent School District No. 622.....	2,694.43
Roseville Independent School District No. 623.....	2,618.77
White Bear Lake Independent School District No. 624.....	2,380.89
St. Paul Independent School District No. 625.....	9,074.44
Duluth Independent School District No. 709.....	4,611.99
St. Cloud Independent School District No. 742.....	2,884.33
South Washington Area Independent School District No. 833.....	2,643.15
Stillwater Independent School District No. 834.....	2,169.66
University of Minnesota.....	24,798.88

MISSISSIPPI	
Alcorn State University.....	2,542.10
Gulf Coast Junior College District.....	2,048.73
Mississippi State University.....	2,559.47
University of Mississippi.....	2,488.34
University of Southern Mississippi.....	2,438.30
De Soto County School District.....	2,154.66
Jackson Separate School District.....	4,618.84

MISSOURI	
Central Missouri State University.....	\$3,047.60
Florissant Valley Community College.....	2,535.02
Forest Park Community College.....	3,238.42
St. Louis Community College.....	3,308.06
Southeast Missouri State University.....	2,374.84
Southwest Missouri State University.....	3,465.81
University of Missouri at Columbia.....	7,491.55
University of Missouri, Kansas City.....	3,934.85
University of Missouri, St. Louis.....	3,967.59
Columbia School District 93.....	2,279.71
St. Joseph School District.....	3,030.14
North Kansas City District 74.....	4,052.71
R-X11 Springfield.....	4,930.06
C-1 Hickman Mills.....	2,455.18
C-2 Raytown.....	2,393.24
Independence School District 30.....	2,809.17
Kansas City School District 33.....	9,419.21
C-6 Fox.....	2,025.24
Hazelwood School District.....	4,517.79
R-11 Ferguson-Florissant.....	3,615.85
R-VI Rockwood.....	2,126.98
R-IX Mehlville.....	2,475.69
Parkway.....	4,992.82

MONTANA	
University of Montana.....	2,886.52
Montana State University.....	3,422.49
Great Falls SD N. 1.....	2,152.44
Great Falls SD A.....	2,157.67
Billings Elementary SD.....	2,443.60
Billings Elementary SD.....	2,339.76

NEBRASKA	
University of Nebraska—Lincoln.....	5,446.64
University of Nebraska—Omaha.....	3,678.98
Lincoln Public School.....	5,331.18

NEVADA	
Clark County School District (Las Vegas).....	16,698.72
Washoe County School District (Reno).....	6,166.70

NEW HAMPSHIRE	
University of New Hampshire.....	5,048.81
School Department, City of Manchester.....	3,283.71
School Department, City of Nashua.....	2,322.82

NEW JERSEY	
Bergernfield Board of Education.....	3,198.05
Carlstadt-East Rutherford Regional Board of Education.....	3,099.04
Hackensack Board of Education.....	4,661.41
Lenape Regional High School Board of Education.....	5,236.47
Willingboro Board of Education.....	3,672.23
Bellmawr Board of Education.....	2,010.80
Caldwell-West Caldwell Board of Education.....	2,340.55
Cedar Grove Board of Education.....	2,344.51
West New York Board of Education.....	3,141.88
Hamilton Township Board of Education.....	4,193.62
Sayreville Board of Education.....	7,235.85
Butler Board of Education.....	2,199.32
Montville Township Board of Education.....	4,318.54
Lakewood Board of Education.....	4,427.20

Toms River Board of Education		Unionsdale Union Free School District		Cleveland State University	\$15,593.32
Wayne Township Board of Education	\$4,552.55	Utica City School District	\$2,706.20	Kent State University	20,253.90
Hillsborough Township Board of Education	11,673.52	Vestal Central School	3,661.61	Miami University	19,162.78
Scotch Plains-Fanwood Board of Education	2,178.95	Wantagh Union Free School District	2,621.52	Ohio University	22,587.96
Union Township Board of Education	3,713.13	Watertown City School District	2,339.81	Ohio State University	50,962.31
Rutgers State University	5,113.58	West Seneca Central School District	2,630.56	University of Toledo	7,253.28
Mercer County Community College	41,752.69	State University Construction Fund	2,160.42	Wright State University	3,209.66
	3,297.95		347,225.77	Youngstown State University	4,760.29
NEW MEXICO		NORTH CAROLINA		Cuyahoga C.C.D.	8,456.08
University of New Mexico—Albuquerque	6,403.00	East Carolina University—Greenville	2,376.12	Avon Lake Board of Education	2,468.95
New Mexico State University—Las Cruces	3,953.87	North Carolina State—Raleigh	3,520.11	OKLAHOMA	
Albuquerque School District	15,619.48	University of North Carolina—Chapel Hill	3,961.66	Central State University	2,602.78
Gallup School District	2,485.13	Central Piedmont Community College	5,553.56	Oklahoma State University	4,308.87
Las Cruces School District	2,926.23	Alamance County	2,118.44	University of Oklahoma	4,080.67
Santa Fe School District	2,225.28	Buncombe County	3,874.14	Lawton School District	3,421.62
NEW YORK		Burke County	2,206.14	Moore School District	2,185.34
Arlington Central School District	3,028.75	Caldwell County	2,379.46	Midwest City School District	3,349.09
Auburn Enlarged City School District	2,688.46	Catawba County	2,081.45	Oklahoma City School District	8,952.77
Baldwin Public Schools	3,036.69	Cumberland County	5,750.70	Putnam City School District	3,662.47
Bethpage Union Free School District	3,574.41	Davidson County	2,642.55	Tulsa City School District	11,472.76
Central Islip Public Schools	3,662.99	Durham County	2,715.26	OREGON	
Central Square Central Schools	2,582.50	Forsyth County	7,050.21	Portland Community College	2,731.70
Cheektowaga-Maryvale Union Free School District	2,672.97	Gaston County	5,603.33	Clackamas County School District 12	2,718.20
Clarkstown Central School District	5,734.73	Guilford County	4,134.52	Lane County School District	4,132.40
Corning-Painted Post Area School District	3,539.48	Greensboro County	4,311.99	Marion County School District 24 J	4,392.71
Deer Park Union Free School District	3,012.73	Johnston County	2,451.22	Multnomah County School District 1	11,959.18
Fayetteville-Manlius Central School District	2,285.81	Mecklenburg County	12,586.30	Washington County School District 48	4,070.54
City School District of Glen Cove	2,324.20	New Hanover County	3,352.42	PENNSYLVANIA	
Greece Central School District	4,501.39	Onslow County	2,497.46	Bloomsburg State College	2,934.86
Hicksville Union Free School District	3,307.94	Randolph County	2,256.53	California State College	2,541.54
Hilton Central Schools	2,579.02	Robeson County	2,130.24	Clarion State College	2,590.27
Horseheads Central School District	2,347.57	Rowan County	2,332.11	Edinboro State College	3,466.00
Huntington Union Free School District	3,687.02	Wake County	8,849.44	Indiana University of Pennsylvania	5,473.44
Jericho Union Free School District	3,423.95	Wayne County	2,282.84	Kutztown State College	2,710.38
Lakeland Central School District of Scrub Oak	3,609.06	Wilson County	2,121.63	Millersville State College	3,080.56
Liverpool Central Schools	4,828.45	NORTH DAKOTA		Shippensburg State College	2,835.42
Mahopac Central School District	3,606.23	University of North Dakota	3,028.14	Slippery Rock State College	3,125.85
Mamaroneck Union Free School District	2,153.57	North Dakota State University	2,438.76	West Chester State College	4,575.56
Massapequa Union Free School District	5,632.45	Bismarck School District	3,908.60	Pennsylvania State University	33,583.47
Mineola Union Free School District	2,280.94	Fargo School District	3,716.93	Temple University	17,204.50
Monroe-Woodbury Central School District	3,495.25	Grand Forks School District	3,809.63	University of Pittsburgh	17,204.00
Monticello Central School District	2,096.15	Minot School District	3,485.86	Bucks County Community College	3,394.63
Northport-East Northport Union Free School District	5,323.48	OHIO		Community College of Allegheny	7,875.18
Pittsford Central School	6,484.86	Akron City School District	9,524.57	Community College of Philadelphia	5,279.00
Plainedge Union Free School District	2,292.10	Austintown Schools	2,506.79	Community College of Delaware County	2,395.34
Rochester City School District	8,906.18	Bedford School District	2,547.35	Harrisburg Area Community College	2,285.07
Rush-Henrietta Central School District	3,871.04	Berea City School District	7,291.69	Montgomery County Community College	3,063.34
Sewanhaka Central High School District	4,552.50	Boardman School District	2,684.31	Northampton County Area Community College	2,117.21
South Huntington Union Free School District	3,997.85	Brecksville-Broadview	2,075.16	Allegheny County Schools	13,080.71
Sweet Home Central School District	3,142.84	Canton Board of Education	3,275.19	Pennsylvania Hills School District	2,914.67
Three Village Central School District	6,098.14	Cincinnati Board of Education	19,205.71	Armstrong School District	2,459.79
		Cleveland Board of Education	25,598.40	Reading School District	3,256.60
		Columbus School District	24,605.08	Altoona Area School District	2,933.03
		Cuyahoga Falls Board of Education	2,895.22	Ebensalem Township School District	2,128.32
		Dayton Public Schools	14,197.45	Centennial School District	2,757.61
		Hamilton City School District	3,770.00	Central Bucks School District	3,001.11
		Lima City Board of Education	2,951.16	Council Rock School District	2,293.03
		Lorain City School District	7,032.91	Neshaminy School District	2,645.92
		Mad River Township School District	2,474.75	Pennsburg School District	2,878.72
		Marietta Board of Education	2,231.68	Butler Area School District	2,801.46
		Marion City Schools	2,315.77	West Chester Area School District	2,741.80
		North Olmsted City Board of Education	2,361.31	West Shore School District	2,205.32
		Northwest Local Board (Cincinnati)	3,229.84	Central Dauphin School District	2,767.04
		Shaker Heights Board of Education	4,002.92	Harrisburg City School District	2,474.58
		South Euclid-Lyndhurst	2,784.16	Chester-Upland School District	2,475.09
		Sylvania Board of Education	2,081.78	Upper Darby School District	2,493.19
		Washington Local Schools	3,124.00		
		Wayne Board of Education	2,036.75		
		West Clermont School District	2,098.83		
		Willoughby-Eastlike City	4,258.26		
		Worthington City Schools	2,346.01		
		University of Akron	8,101.44		
		Bowling Green University	18,892.07		
		University of Cincinnati	20,979.97		

Erle City School District.....	\$3,849.43	Piano ISD.....	\$2,912.34	WASHINGTON	
Connellsville Area School District.....	2,044.17	Carrollton—Farmers Br.....	2,077.42	Auburn School District 408....	\$2,172.93
Chambersburg Area School District.....	2,323.37	Dallas ISD.....	22,701.90	Bellevue School District 405....	5,766.47
Scranton City School District.....	3,010.29	Garland ISD.....	4,880.61	Central Valley School District 356.....	2,910.40
Lancaster School District.....	2,579.12	Grand Prairie ISD.....	2,281.96	Clover Park School District 400.....	3,697.45
Allentown City School District.....	3,906.29	Irving ISD.....	4,111.63	Edmonds School District 15....	5,969.99
Hazleton Area School District.....	2,638.27	Mesquite ISD.....	3,337.07	Everett School District 2.....	3,100.47
Wilkes-Barre Area School District.....	2,553.11	Richardson ISD.....	6,219.61	Evergreen School District 205.....	2,632.59
Williamport Area School District.....	2,238.21	Ector County ISD.....	3,929.63	Federal Way School District 210.....	4,086.34
Mifflin County School District.....	2,157.13	El Paso ISD.....	10,267.34	Highline School District 401....	5,263.33
Abington School District.....	2,128.57	Ysleta ISD.....	7,146.55	Kennewick School District 17.....	2,565.52
North Penn School District.....	2,598.50	Fort Bend ISD.....	2,202.61	Kent School District 415.....	4,226.30
Bethlehem Area School District.....	3,622.24	Clear Creek ISD.....	2,785.30	Lake Washington School District 414.....	4,583.38
Easton Area School District.....	2,036.52	Aldine ISD.....	5,383.01	Longview School District 122....	2,134.49
Philadelphia City School District.....	62,321.36	Cypress-Fairbanks ISD.....	2,487.99	North Thurston School District 3.....	2,121.24
Warren County School District.....	2,331.02	North Forest ISD.....	2,957.98	Northshore School District 417.....	3,381.73
Hempfield Area School District.....	2,576.06	Goose Creek ISD.....	2,508.30	Puyallup School District 3.....	3,065.48
Bristol Township School District.....	2,713.49	Houston ISD.....	34,226.65	Renton School District 403.....	3,745.17
RHODE ISLAND		Pasadena ISD.....	6,108.21	Richland School District 400....	2,259.35
Rhode Island College.....	2,852.70	Spring Branch ISD.....	6,630.92	Seattle School District 1.....	15,620.33
Rhode Island Junior College.....	3,206.19	McAllen ISD.....	2,508.30	Shoreline School District 412....	3,127.25
Pawtucket.....	2,366.79	Port Arthur ISD.....	2,158.64	South Kitsap School District 402.....	2,063.18
Cranston.....	2,896.82	Lubbock ISD.....	5,537.63	Spokane School District 81.....	8,161.01
East Providence.....	2,090.28	Waco ISD.....	2,625.47	Tacoma School District 10.....	8,347.10
University of Rhode Island.....	4,391.92	Midland ISD.....	2,659.93	Vancouver School District 37....	4,468.06
Providence.....	4,439.99	Conroe ISD.....	2,542.94	Yakima School District 7.....	3,091.46
Warwick.....	3,900.39	Corpus Christi ISD.....	6,734.49	State of Washington RE Institutions of Higher Education.....	54,255.22
SOUTH CAROLINA		Amarillo ISD.....	4,439.12	WEST VIRGINIA	
Clemson University.....	2,689.18	Tyler ISD.....	2,709.85	West Virginia University.....	5,414.09
University of South Carolina.....	5,365.04	Arlington ISD.....	4,886.01	Marshall University.....	2,824.91
Aiken School District.....	3,373.96	Birdville ISD.....	2,606.65	Cabell County Schools.....	2,936.71
Berkeley County Schools.....	3,236.15	Fort Worth ISD.....	12,071.12	Kanawha County Schools.....	6,824.93
Charleston County Schools.....	7,202.39	Hurst-Euless-Bedford ISD.....	2,872.48	Mercer County Schools.....	2,173.03
Florence School District.....	2,199.55	Abilene ISD.....	3,057.09	Raleigh County Schools.....	2,589.32
Greenville County Schools.....	4,829.78	San Angelo ISD.....	2,498.05	WISCONSIN	
Horry County.....	2,874.66	Austin ISD.....	9,840.01	University of Wisconsin—Madison.....	24,307.87
Richland School District No. 1.....	4,760.88	Victoria ISD.....	2,166.28	University of Wisconsin—Eau Claire.....	2,677.48
York School District No. 3.....	2,057.39	Laredo ISD.....	3,691.38	University of Wisconsin—La Crosse.....	2,879.96
SOUTH DAKOTA		Wichita Falls ISD.....	2,638.32	University of Wisconsin—Oshkosh.....	4,998.30
Sioux Falls School District.....	4,445.68	UTAH		University of Wisconsin—Green Bay.....	2,606.52
Rapid City School District.....	3,483.02	University of Utah.....	7,437.09	University of Wisconsin—Menomonie.....	3,333.39
TENNESSEE		Utah State University.....	3,265.99	University of Wisconsin—Milwaukee.....	8,329.14
East Tennessee State University.....	2,517.19	Weber State College.....	3,025.44	University of Wisconsin—Kenosha.....	2,664.17
Memphis State University.....	5,362.61	Utah Technical College.....	2,236.98	University of Wisconsin—Platteville.....	3,185.30
Middle Tennessee State University.....	2,613.36	Davis School District.....	8,004.99	University of Wisconsin—River Falls.....	2,986.24
University of Tennessee—Knoxville.....	7,685.20	Granite School District.....	13,294.15	University of Wisconsin—Stevens Point.....	4,500.45
Blount County School District.....	2,062.02	Jordan School District.....	8,632.08	University of Wisconsin—Superior.....	2,216.96
Davidson County School District.....	14,231.23	Nebo School District.....	2,486.54	University of Wisconsin—Whitewater.....	4,867.75
Hamilton County School District.....	4,059.40	Weber School District.....	4,347.98	Appleton Joint School District.....	16,184.77
Knox County School District.....	5,245.26	Salt Lake City School District.....	5,401.71	Ashwaubenon Public Schools.....	3,791.22
Montgomery County School District.....	2,907.65	Ogden School District.....	2,644.91	Cudahy Public Schools.....	2,653.53
Rutherford County School District.....	2,414.45	Provo School District.....	2,056.15	Eau Claire Board of Education.....	6,163.91
Shelby County School District.....	4,518.48	VERMONT		Elmbrook Schools (Joint Common School District No. 21).....	18,109.07
Sullivan County School District.....	3,613.78	University of Vermont.....	3,754.00	D.C. Everest Area Schools (Joint School District No. 1).....	4,076.90
Summer County.....	3,426.52	VIRGINIA		Kenosha Unified School District No. 1.....	10,392.74
Chattanooga Schools.....	5,512.59	George Mason University.....	2,192.28	Marshfield Public Schools.....	2,588.78
Knoxville Schools.....	5,780.64	Old Dominion University.....	3,876.98	Board of Education (Joint School District No. 1).....	2,699.75
Memphis Schools.....	22,428.48	University of Virginia.....	5,199.87		
TEXAS		Virginia Commonwealth University.....	4,368.58		
Killeen ISD.....	2,755.31	Virginia Polytechnic.....	4,862.93		
Harlandale ISD.....	2,975.87	North Virginia Community College.....	6,783.23		
Edgewood ISD.....	3,264.79	Tidewater Community College.....	2,973.15		
San Antonio ISD.....	10,784.84	Arlington Schools.....	3,114.08		
North East ISD.....	5,595.19	Augusta Schools.....	2,067.83		
Northside ISD.....	5,060.56	Chesterfield Schools.....	5,850.58		
Brownsville ISD.....	3,925.91	Fairfax Schools.....	23,024.93		
		Hanover Schools.....	2,038.21		
		Henrico Schools.....	6,213.80		
		Henry Schools.....	2,290.29		
		Loudoun Schools.....	2,557.65		
		Pittsylvania Schools.....	2,646.16		
		Prince William Schools.....	2,915.17		
		Roanoke Schools.....	2,917.19		
		Tazewell Schools.....	2,022.02		
		Alexandria Schools.....	2,210.99		
		Chesapeake Schools.....	4,830.83		
		Hampton Schools.....	4,847.02		
		Lynchburg Schools.....	2,059.92		
		Newport News Schools.....	5,210.25		
		Norfolk Schools.....	7,682.15		
		Portsmouth Schools.....	3,722.39		
		Richmond Schools.....	6,174.79		
		Roanoke Schools.....	3,180.87		
		Virginia Beach Schools.....	10,221.95		

Board of School Directors-Milwaukee	\$40,253.39
Oshkosh Area Public Schools	8,592.61
Racine Unified School District No. 1	14,796.95
Joint Union High School District No. 1	2,074.82
West Allis Schools	9,248.24
Monona Grove Public Schools	2,284.88
Grafton Public Schools	2,006.47
Janesville Public Schools	14,046.05
Kiel Area Schools	2,373.27
Muskego-Norway Schools	2,862.64
Neenah Joint School District	5,135.82
Plymouth Joint School District	3,351.35
Verona Area School District	2,179.86
School District of Wausau	3,058.96
Area Vocational Technical & Adult Education District, Eau Claire	2,119.13
North Central Technical Institute	3,189.16
Waukesha County Technical Institute	3,980.63

WYOMING

University of Wyoming	2,967.81
Laramie School District 1	2,954.35
Natrona School District 1	3,105.07

STATE TOTALS MASTER KEY ANTITRUST LITIGATION SETTLEMENT DISTRIBUTION

Alabama	\$216,380.41
Alaska	42,622.80
Arkansas	102,699.73
Arizona	149,500.68
California	1,617,080.60
Colorado	188,167.06
Connecticut	248,391.79
Delaware	80,146.88
Florida	419,533.34
Georgia	355,499.60
Hawaii	66,564.92
Idaho	50,352.25
Illinois	832,977.86
Indiana	430,617.79
Iowa	194,033.94
Kansas	157,796.12
Kentucky	230,405.74
Louisiana	258,441.63
Maine	61,007.95
Maryland	336,519.34
Massachusetts	372,329.03
Michigan	792,690.03
Minnesota	371,619.80
Mississippi	138,435.45
Missouri	296,098.62
Montana	52,613.44
Nebraska	101,518.57
Nevada	47,071.36
New Hampshire	50,839.96
New Jersey	427,839.75
New Mexico	87,580.75
New York	1,724,168.90
North Carolina	315,621.81
North Dakota	56,352.57
Ohio	711,360.88
Oklahoma	154,012.68
Oregon	153,968.36
Pennsylvania	858,235.11
Rhode Island	60,062.16
South Carolina	147,997.59
South Dakota	49,849.84
Tennessee	273,575.34
Texas	760,250.06
Utah	115,631.41
Vermont	37,154.54
Virginia	317,232.69
Washington	328,819.52
West Virginia	101,177.55
Wisconsin	431,031.52
Wyoming	33,637.17

Grand total 15,387,546.89

(Mr. HUDDLESTON assumed the chair.)

Mr. METZENBAUM. Mr. President, it is absurd that average citizens must bear the cost of antitrust violation while

middlemen are permitted to reap the benefits of treble damage antitrust awards, and it is also absurd that a filibuster is being conducted against this proconsumer amendment to keep it from being called up while the anticonsumer bill is pending on the floor of the Senate.

Who owns the Senate? Whose Senate is this? Do the people not have an opportunity to have their amendments called up and only special interests have an opportunity to be heard? I hope not.

The worst part about this particular issue is that one of the Members of the Senate for whom I have the highest respect, the distinguished Senator from Indiana, finds himself in that very difficult position of being both the author of the legislation as well as a cosponsor of the Illinois Brick amendment.

And the concern he expressed yesterday was that there might be a filibuster and/or if Illinois Brick were to be attached to the bottlers bill, it might cause it to be defeated.

I do not know if that is so. It might gain more strength. I think Illinois Brick could only be attached if we had a majority on the floor of the Senate, and I do not see why it would be defeated unless there might be someone else who then thinks he would filibuster against Illinois Brick. But they are using a cloture motion to cut off this amendment from being called up and if that were the case, then why not use a cloture motion to cut off a filibuster against Illinois Brick?

What would Illinois Brick do? First, it would partially, and I emphasize "partially," overturn Illinois Brick by permitting Federal and State governments to sue for damages under the antitrust laws for themselves and on behalf of citizens who are indirect purchasers.

Second, it would modify the Supreme Court's ruling in the Hanover shoe case, allowing defendants in antitrust cases to raise the pass-on defense, thereby protecting themselves from duplicative recovery.

It would also modify the rule announced in government of India against Pfizer, Inc. to limit recoveries by foreign governments to no more than actual damages, as opposed to treble damages, under U.S. law.

It would permit the Federal courts to determine the amount of plaintiffs' attorney's fees that can be recovered in class action cases in Government suits.

It would permit the courts to award attorney's fees to prevailing defendants in cases that plaintiffs have brought in bad faith or vexatiously.

Finally, the amendment would be applicable to all pending cases, with the exception that the pass-on defense would not be permitted in direct-purchaser cases pending at the time of the enactment.

Let me emphasize. This amendment is a half-way measure. It makes some compromises. It takes care of certain other problems that business interests had concerns about. It corrects only some of the many inequities created by the Illinois Brick decision, but at least it is a major step in the right direction and it would permit the States through their

State attorneys general to bring an action on behalf of the State and on behalf of the State itself and on behalf of citizens who are indirect purchasers.

Let me tell Senators some things it does not do. The amendment does not, for example, permit consumers to sue antitrust violators on their own behalf. It should, but it does not in an effort to compromise the issue. It does not permit small businessmen to sue on their own behalf. It should, but it does not in an effort to compromise the issue.

It permits only Federal and State antitrust authorities to act and authorizes them to bring only two kinds of suits: suits on behalf of citizens who are victimized by antitrust violations and suits on their own behalf when they themselves are victims of antitrust violations.

It is estimated that there are \$0.5 billion in the claims currently pending in State and Federal proprietary suits, \$0.5 billion in overcharges, but they cannot be brought with any real efficacy by reason of Illinois Brick. As a matter of fact, I cannot tell you how many more millions or billions of dollars in claims are at stake in State parens suits.

It is beyond me how responsible spokesmen for the business community, the Business Round Table, to be precise, can oppose a mild measure like this one.

I remember when the Business Round Table was talking about providing a link between Government and the business community. I remember when they said there needed to be more communication, that we have to work together for the general good.

I remember when the Business Round Table was moving in a direction that some of us felt would indicate that they would be concerned about the total good, about the total welfare of the Nation, that they would not be just another U.S. Chamber of Commerce or National Association of Manufacturers.

Well, it did not take very long. The Business Round Table continued to create and to add to its muscle, and as it added to its muscle it turned its back on the consumers and the public, on the States and the local governmental agencies.

They talk about balancing the budget at Business Round Table meetings. They talk about cutting down governmental spending at the Business Round Table meetings. They bring in great speakers, and they get people who are specialists about how we have to cut back on the public dollar, Federal, State, and local. They have some of the finest orators on the subject.

But Illinois Brick would make it possible to do something about it, and the Business Round Table is opposing that. They do not really care about the fairness and the equity of a doctrine that precludes suits being brought against corporations that have willingly engaged in price-fixing.

They ought to be in the forefront of this legislation supporting Illinois Brick. But, no, when it comes to helping the school districts and the counties and the State governments, and making those who have willfully engaged in overcharging conspiracies pay the piper, then they use all of their muscle to defeat the

legislation, and that is what we find present in this situation.

This is a mild amendment that I would propose. It is an amendment that has a host of supporters:

The Amalgamated Clothing and Textile Workers Union; the American Association of State Highway and Transportation Officials; American Coalition of Citizens with Disabilities; the American Federation of State, County and Municipal Employees; the Arizona Public Service Co.; the Associated Retail Bakers of America; Citizens for Class Action Lawsuits; Common Cause; the Computer and Communications Industry Association; Congress Watch; the Consumer Federation of America; the Cooperative League of the U.S.A.; the Disability Rights Center; the Disabled American Veterans; the Independent Bankers Association; the International Association of Machinists and Aerospace Workers; the International Ladies Garment Workers Union; MCI Communications Corp.; the National Association of Attorneys General; the National Association of Counties; the National Association of Homebuilders; the National Association of State Purchasing Officials; the National Conference of State Legislatures; the National Consumers League; the National Council of Senior Citizens; the National Farmers Union; the National Governors Association; the National Homeowners Association; the National Institute of Governmental Purchasing, Inc.; the National League of Cities; the National Retired Teachers Association; the American Association of Retired Persons; the National World Electric Cooperative Association; the Oil, Chemical, and Atomic Workers International Union; the Paralyzed Veterans of America; the Public Interest Economic Center; the United Auto Workers; the United Mine Workers of America; the United Steelworkers of America; the White House; and the Women's Lobby.

That is a pretty impressive list of people and groups that support the Illinois Brick amendment. But, no, we cannot bring it up. It is nongermane. The rules say, Senator, that you can bring up a nongermane amendment prior to invoking cloture. But, no, you cannot do that if there is a pending amendment in the first degree and an amendment to that in the second degree.

Yesterday I stood on the floor of the Senate and said "Let us adopt that amendment in the first and second degree. Let us adopt either one of the amendments, the first degree amendment or the second degree amendment or both of them." There is no controversy about those amendments. They are good amendments. The authors do not want to adopt those amendments, and they do not want to adopt them because they know if they do then I can call up the Illinois Brick amendment prior to cloture being invoked. That is an absolutely unbelievable situation, a filibuster being conducted under the cloak of cloture. But it is just exactly the question of man bites dog, it is the opposite. Normally you use cloture to cut off debate. They are using cloture to keep a Member of the Senate from doing that which he has a right to do under the rules of this body.

I would say this amendment should be called up, would be called up, and will be called up if the author of the first degree amendment, the author of the second degree amendment, see fit to accept and approve their amendments. Their amendments have been on the floor for better than 24 hours, and nobody is opposed to them. Why are we not accepting them? We are not accepting them because the business community does not want Illinois Brick to be brought up, and, unfortunately, there are people in the Senate who are willing to go along with that point of view. Why do they not go along with the rights of the consumers of this country and the attorneys general and the whole list of groups who feel that Illinois Brick ought to have its day in court on the floor of the Senate?

It is a recognized fact that we have been trying to bring Illinois Brick to the floor of the Senate for weeks and months. But, no, we cannot do that. There might be a filibuster.

Well, let there be a filibuster and let us vote cloture and bring it to a head. I will not filibuster against it, and I am not prepared to filibuster this measure or other measures, but the fact is that the rules are being turned around so that a Member cannot bring up an amendment that he has a right to bring up.

I am being blocked from doing so. This amendment would not expose business to spurious time-consuming litigation generated by unscrupulous lawyers and professional troublemakers. No, not on your life could that occur because under this amendment only State and Federal antitrust authorities would be able to bring suits on behalf of indirect purchasers.

No private lawyer can set out to enrich himself at the expense of business.

I want to make it clear that I do not actually think that that is right. I am not worried about the lawyers making a fee. I am worrying about the corporations who engage in conspiracies to overcharge the American public by their being brought into court.

As a matter of fact, I feel very strongly that the amendment that I want to bring up does not go far enough. But, in an effort to compromise the issue, we accepted the fact that only the attorneys general would have the right to sue.

There is not any logical reason why those who are hurt, the consumers, why the business groups that are hurt should not have a right to see themselves and that their lawyers should be compensated. I have no quarrel to find with that.

Mr. President, State and Federal antitrust authorities have no incentive to waste their time and resources on spurious suits. They will only bring suits that have merit if this amendment were to be adopted. They will bring those suits in order to redress the harm done the individual consumers and, maybe even more importantly, to deter future antitrust violations. No deterrent effect arises from filing nonmeritorious, spurious suits which are continually thrown out of court.

Mr. President, we in Congress have a responsibility, we have a responsibility that we are avoiding, to the American consumer to reverse the effects of Illinois Brick. If we do not act now on this vital

issue we inevitably stand to lose face with the American people—and rightfully so.

There is no secret about the fact that this Congress has been charged by many as being the most anticonsumer Congress in many a year. This is a Congress that has not been willing to adopt a consumer protection advocacy agency. This is a Congress that has decimated the Federal Trade Commission, the only major agency that concerns itself with consumer rights. This is a Congress that would have difficulty in finding a single piece of legislation of major moment that is pro-consumer.

We have treated the American consumer shabbily, and we are treating the American consumer even more shabbily today. We are involved in a filibuster against a proconsumer amendment so that we can enact a piece of legislation that is anticonsumer, that provides an exemption from the antitrust law.

This legislation cannot be viewed in isolation. Unfortunately, over the past several years, Congress—and the administration—have demonstrated the low priority they place on the protection of consumer rights. Time and again consumer interests have been sacrificed for the benefits of one or another more politically expedient cause.

I cannot think of any logical reason under the Sun why we should be passing a piece of legislation that says that the Coca-Cola Distributing Co. of Mansfield, Ohio, cannot sell its product for 10 cents or 20 cents or 50 cents a case less in Cleveland, Ohio. That is plain absurd.

We want to pass that legislation, provide an exemption from the antitrust laws while a matter is pending in the Federal courts, and yet we are not willing even to permit to come to the floor a measure which would be proconsumer, which would make it possible to bring actions under the law by the Attorney General of the United States.

Consumers suffered when Congress refused to send a paltry \$15 million to establish a consumer protection agency. That agency would have saved hundreds of millions of dollars every year for the people in this country. No, in the interest of economy, we had to save that \$15 million and not enact a consumer protection agency.

Consumers suffered when the President decided that the only possible way to conserve energy was to lift price controls and price individual Americans out of the energy market, deregulate natural gas prices, deregulate jet fuel, deregulate oil—deregulate anything that makes the oil companies richer and the consumers poorer. That is the name of the game.

As a matter of fact, Mr. President, we had a great victory this week, although the battle is not over, because the President seems determined to impose an added 10-cents-a-gallon tax on gasoline in this country. He talks about it conserving energy. Well, if you look at the facts, you will find that you might get a little bit of conservation for a whole lot of inflation.

Even his own best advisers say that it will add three-quarters of a point to 1 percent on the inflation rate. That does not seem to bother the President and

his advisers. It did not bother them when they told us if we deregulated the price of natural gas, we had so much more gas and it really would not cost much more than about an 8-percent increase.

Well, I can only say to my friends who voted with the President: Look at the record. You will see that there is not any more natural gas, but there is an awful lot more price.

There is more natural gas in the interstate market coming from those oil companies that were withholding intrastate gas from the interstate market. Charles Curtis, the head of the Federal Energy Regulatory Commission, recently testified that at the end of 1979 there was not any more natural gas.

Then, the President told us we had to deregulate the price of oil. I heard him on the tube tell us about the fact that we had so much inflation that has to do with the OPEC oil prices. Well, I can only suggest to the President that he go back and look at the facts and that he not just gloss over the reality of a situation, because it is the oil companies that have really joined and used the OPEC price increases to enrich their own pockets. Unbelievable price increases.

Where did it come from? It came from decisions of the Department of Energy, so many of which were to help the oil companies in increasing their prices. And that was before the impact of the President's order decontrolling the price of oil.

I read the other day that, I think it was Exxon that said—and decontrol had only been in effect a few months—that it was adding something like \$30 million a month to their income by reason of the phased decontrol which has not yet taken full effect.

Mr. President, it is said, it is very sad to see this administration, day in and day out, favoring oil companies, favoring the business community that does not need any help.

I have no problem about helping the business community when they are in trouble. The auto industry is in trouble at the moment. I think we ought to provide some help for them. I think we ought to back off some of those imports that are coming in. I think we ought to give the industry a chance to rectify its errors of the past. But I am sad to say that I am not in agreement with the administration here, either, because the administration is not willing to do that. I am concerned that if they do not, the auto industry, much of it, will no longer be able to hold its head above water.

Mr. President, I varied from the subject that is before us today, and I am well aware of that.

Mr. BAYH. Mr. President, will the Senator permit me to interrupt and yield to me to make a comment, without his losing his right to the floor or without it being counted as a second speech for either one of us, on the subject that he has just covered? Since he is returning to the subject matter of his previous speech, I wanted to have the opportunity to congratulate him and comment on the merit of his position.

Mr. METZENBAUM. Mr. President, I have no objection. How much time does the Senator desire?

Mr. BAYH. Just a moment or two.

Mr. METZENBAUM. I have no objection to that.

Mr. BAYH. I will say to my friend from Ohio I could not agree more with the position he has taken on the 10 cent tax. It escapes my rudimentary knowledge of mathematics and economics how one fights inflation by adding 10 cents to the cost of something as basic as gasoline.

In reviewing this with large numbers of my constituents, and my constituents are located very much the same as the constituents of the Senator from Ohio, where many of them have to drive significant distances to get back and forth to work, this imposes a significant burden upon them. I salute him for his concern.

He and I have been shoulder to shoulder in our efforts to try to keep the OPEC pricing mechanism from running the price of our crude oil and our natural gas through the roof. In fact, as I recall the last time the Senator from Ohio was confronted with this particular kind of a parliamentary situation he was doing battle with the Senator from Indiana against those who were trying to keep us from having some influence in keeping the price regulations on the price of natural gas.

Mr. METZENBAUM. The Senator from Indiana is not 10 percent correct but 110 percent correct. Nobody was more helpful in that battle than was the Senator from Indiana. I am very grateful.

Mr. BAYH. I do not want to interrupt the Senator further, but I want to say that I concur with him wholeheartedly. This is a most unfortunate policy. Hopefully, the President might reassess the situation when confronted with this court order. I think we have to fight inflation and you do not fight that by increasing the price of gasoline 10 cents a gallon. I thank my colleague for yielding.

Mr. METZENBAUM. Mr. President, I could speak much longer on this subject. I guess I can speak for hours because I feel so deeply about it. Day in and day out I see what is happening here in the Congress. I see one House battling with the other House as to which one is going to do a better job of dismantling the Federal Trade Commission. In the name of removing the heavy hand of Federal regulators, we will turn the clock backwards. We just do not have a strong consumer agency in the Government any more. Speaking of the one that is there trying to do a job, nobody paid much attention to it until it started to be effective. As soon as that occurred, they descended upon the Congress.

I do not care whether it was the insurance industry, the television industry, Sunkist oranges, any one of a host of others, everybody had a special exemption that they wanted under the Federal Trade Commission regulations.

Most of them got what they wanted, though some did not get it entirely. They will be back. They will keep the lobbyists busy to help with their business PAC's. They will move along. They will not do badly next week or next year, whatever the case may be.

Time and again, Mr. President, this

Nation's policymakers have chosen to ignore the ordinary people of this country at a time when just to get by they need all the help they can possibly get.

Mr. President, we must meet the needs of average Americans instead of continuing to cater to the wealthy and the powerful who come here seeking and too often receiving special treatment at the direct expense of the average American.

Mr. President, I believe that failure by the Congress to strengthen the anti-trust laws would and will send a very disturbing message to the people of this country, a message that we are not willing to require powerful business interests to play their rightful part in the fight against inflation. Let the hard-working middle-class families of this country cut back. Let the poor become a little poorer. Let the elderly do without. But under no circumstances should this Congress willingly inflict upon business the pain and discomfort that flows inevitably not from governmental regulators, but that flows inevitably from free and open competition.

Where is the spirit of the free enterprise system? The bottlers bill is antifree enterprise. The bottlers bill says, "We do not want to let competitive forces work."

We talk about the free enterprise system. We talk about being probusiness and antibusiness. But I say to my friends in the Senate that the bottlers bill may appear to be probusiness but it is very antibusiness, because when you carve out a portion of the antitrust laws and provide a special exemption, you are not doing the Nation any benefit. You are not helping the economy. You are not saying to the people of this country that you believe in free enterprise.

You believe in free enterprise only when it helps you, not when it hurts you.

The Senate recently approved the first balanced Federal budget in nearly two decades. Today we have the opportunity to strike another blow against inflation by passing an amendment that will enhance competition, by far the most effective tool we have to make our economy more efficient and more productive.

Mr. President, the Senate has a right to vote upon the Illinois Brick amendment, but as we well know it is precluded from doing so because there are amendments in the first and second degree on the floor of the Senate.

Approximately 27 hours ago I urged those who were authors of those two amendments to accept the amendments, to make them a part of the bill. They were engaged in this filibuster by amendment to keep a Member of the Senate from calling up an amendment that he has the right to call up except for the fact that there is an amendment in the first and an amendment in the second degree pending.

Therefore, Mr. President, I again suggest to my friend from Indiana that since it may have been the fact that yesterday we needed more debate on these amendments, I would like to propose and, Mr. President, ask unanimous consent that these two amendments in the first and second degree be adopted.

The PRESIDING OFFICER. Is there objection?

Mr. BAYH. Mr. President, I object.
The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. Then I ask unanimous consent that notwithstanding the fact that there is pending an amendment in the first degree and an amendment in the second degree, that the Senator from Ohio be permitted to call up his Illinois Brick amendment.

The PRESIDING OFFICER. Is there objection?

SEVERAL SENATORS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. Mr. President, I must say that the Senator from Ohio is not taken back by those objections. I assumed that the objections would be made. But I thought that I had to make it clear, not only to the Senate but to the world, that we are engaged in a filibuster to keep a Member of the Senate from calling up an amendment that he rightfully has the privilege of doing under the rules of the Senate, and that what really is taking place, as I previously said, is a filibuster, a filibuster by those who have called up the bill, not a filibuster by those who want to defeat the bill.

I am not filibustering this amendment. The authors, those who support the measure, are filibustering. They are keeping the floor closed from any amendment. Who amongst us have said that there is something so right and so proper about any particular measure, whether it is theirs or someone else's, that no Member of the Senate may be offered an opportunity to call up an amendment? What kind of an absurdity is this? What kind of an aberration of the rules of the Senate is this?

Filibusters and cloture. Cloture has, in the past, been used only—almost only—for the purpose of cutting off debate when somebody was trying to keep a measure from coming to a vote. I am not trying to do that. Let it come to a vote. Let the amendment come to a vote; let the amendment in the second degree come to a vote; accept it by voice vote. Let my amendment come to a vote; let the bill come to a vote. I am willing to agree to stop talking at any point.

But the fact is that this anomalous situation has developed, where cloture and the laying down and calling up of a first- and second-degree amendment are being used to preclude any amendment being offered.

It is a fact that I can call my amendments up after cloture has been invoked. But it is also a fact that if amendments are nongermane, then they will be ruled out of order.

I respect that rule. But I am trying to call the amendment up prior to cloture being invoked and, by a filibuster, I am being filibustered against doing so, and then having cloture used to keep me from calling up an amendment.

There is a right to do so. I am not saying there is no right. I am saying that is not what the rules originally contemplated. That is not what was intended. Cloture was intended for the purpose of cutting off a filibuster. Cloture was not intended to make it possible to filibuster, and that is exactly what has developed.

Mr. President, I am prepared to yield the floor, reserving to myself the right to conclude my remarks at 2:30 this afternoon.

Mr. BAYH. Mr. President, I ask unanimous consent that the speech of the Senator from Ohio not be counted as a first speech under the debate procedure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. I appreciate the cooperation of the Senator from Indiana.

The PRESIDING OFFICER. Who yields time?

Mr. HAYAKAWA. Mr. President, I ask unanimous consent to speak for a few minutes on a subject not pertaining to the business at hand and ask that it not be counted as the first speech of the day.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The remarks of Mr. HAYAKAWA at this point in connection with the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

Mr. HAYAKAWA. Mr. President, may I proceed to a further discussion of S. 598, which is the topic of our discussion today? I am a cosponsor with about 89 others.

Mr. BAYH. Mr. President, will the Senator yield briefly for an inquiry of the Senator from Ohio about the future this afternoon, without losing his right to the floor or his question or that of the Senator from Indiana being considered as a speech in debate?

Mr. HAYAKAWA. I am glad to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Would the Senator from Ohio have any objection if, at about the hour of 2:15, we provided just a bit of leeway for the introduction from committee of the intelligence bill which has been worked on assiduously by the present Presiding Officer, the Senator from Kentucky? It has been reported forth and, apparently, some members of the Intelligence Committee might like to be present when it is reported.

I do not think it would take very much time. But I wanted to be able to alert them to come or not to come.

Mr. METZENBAUM. The Senator from Ohio has no objection.

Could we not come to some unanimous-consent agreement where at the hour of 2:15 we have half an hour to take up the intelligence matter, and that at 2:45—

Mr. BAYH. It may not take more than 5 or 10 minutes.

Mr. METZENBAUM. Well, immediately after the conclusion, not in excess of a half hour, the Senator from Ohio be recognized in the event I wish to take the floor at that time.

Mr. BAYH. Let us check with the majority leader.

I appreciate the courtesy of the Senator from Ohio and the Senator from California.

Mr. HAYAKAWA. I thank the Senator.

Mr. President, I am a cosponsor of this bill and commend the distinguished Senators from Indiana and Mississippi for

their hard and persistent work. This act provides that exclusive territorial licenses to manufacture, distribute, and sell trademarked soft drink products shall not be held unlawful under any antitrust law if such products are subject to "substantial and effective competition." "Substantial and effective competition" has been described by the Judiciary Committee to include such factors as the number of brands, types and flavors of competing products available in the territory from which the consumers may choose; the number of retail price options available to the consumers; the degree of service competition among vendors; the ease of entry into the market; and the number and strength of sellers of competing products in the territory.

In 1971, the Federal Trade Commission brought up a series of cases challenging the territorial provisions contained in bottlers' trademark licenses as unfair methods of competition in violation of section 5 of the Federal Trade Commission Act. The Commission conducted a lengthy hearing on the Coca-Cola franchise system to satisfy widespread congressional concern that the soft drink industry should be permitted to present its case in a comprehensive set of hearings. At the end of the hearing, the administrative law judge who heard the testimony ruled that Coca-Cola's franchise system is lawful, and that it positively fosters competition. The judge made extensive findings to the effect that there is intense interbrand competition in this industry in terms of price, product innovation, and marketing techniques.

However, in April 1978, the Federal Trade Commission overruled the administrative law judge and held that the Coca-Cola and Pepsi territorial provisions violated the Federal Trade Commission Act. In doing so, the FTC substantially ignored the massive record of evidence of intense competition between soft drink brands. For example, the FTC never tried to rebut the extensive evidence of intense price competition in the sale of soft drinks; it simply held that without territorial restraints there would be more competition. No attention was paid to the evidence that territories stimulate local bottlers' competitive efforts. Similarly, the FTC minimized the abundant evidence of technological and product innovation in the soft drink industry and assumed that without territories there would be even more innovation. The FTC ruling has been appealed and is pending in the Court of Appeals for the District of Columbia.

Mr. President, this is just another example of bias, fed by usurping power, demonstrated by the FTC. During the hearings and extensive debates of the Federal Trade Commission authorization it became abundantly clear that the FTC needed substantial reform. Not unlike a cancer, this agency of the Federal Government has spread extremities considered protected, and left its crippling mark. Congress has—if this body approves the conference report on the authorization—found it necessary to forbid the Federal Trade Commission to inves-

tigate or promulgate rules in several specific areas. The insurance industry, which had been effectively regulated by the States, came under attack based on a report published by the FTC which the industry has justifiably called fraudulent; the threat of suit by the FTC to make the Formica Corp. change its name because the trademark had become recognized as a generic term; and the list goes on and on.

For the past 75 years the soft drink manufacturers have given their bottlers the exclusive right to manufacture and sell their product within a defined territory. This practice was needed 75 years ago and is just as important today with the impact of inflation and high interest rates hampering the ability of small, independently owned businesses to invest in this area. By providing bottlers with an exclusive territory, the soft drink manufacturers are able to offer an incentive to those businesses wishing to enter the market but who are wary of making the large initial investment needed. This incentive has yet to have a detrimental effect on competition. In fact, the system of exclusive territories has made market entry easy for new products which are able to use the existing distribution systems of major soft drink bottlers. For example, Nestea, canned iced tea, was able to be in areas serving 90 percent of the people in the United States in 3 years, by entering exclusive territorial licensing agreements with 135 established national brand bottlers.

This system has also kept hundreds of small independent bottlers competitive in the market. If the FTC ruling stands, large bottling firms and warehouse operations would enter and overrun the profitable territories, some of which are currently held by small bottlers, and initially offer a lower price and warehouse delivery to the chain stores. This would force the small bottlers out of the market and could lead to price-fixing by the large bottlers once they have taken over. The small bottlers would lose the most profitable sections of their territory to the large bottlers and would have no choice but to cut back service, raise prices or go out of business, leaving the less populated and therefore less profitable areas, with inadequate service, higher prices or no service at all. The passage of this act would provide protection of small bottlers, who are the foundation of the soft drink industry's marketing structure. In California alone, only 14 of the 113 soft drink plants employ over 100 persons. So this has great relevance to the continued existence of small business.

I appreciate the concerns of some of my colleagues that this act would hinder the FTC and the antitrust laws, however, I believe it will insure that every soft drink market is competitive and open to new business and innovation. The FTC would be able to study territories on a case-by-case basis and if it determines there to be a lack of effective competition in a particular market, antitrust laws would be enforced.

I feel this act is needed to put an end to the controversy which has surround-

ed the soft drink industry for 9 years and I give it my full support.

Mr. President, I am thinking about the disappearance within the last 50 years of hundreds and hundreds of local, well-known brands of beer. In Wisconsin alone, if I recall correctly, some 100 brands of beer have disappeared. I do not know how many have disappeared in California. But these are small businesses which needed the protection which the soft drink industry needs.

Therefore, in the interests of the beer business as well as the soft drink business, it seems to me that the small businessman has to be protected.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Bob W. Delauter, of the Coca-Cola Bottling Co. of Portland, Ind., before the Subcommittee on Antitrust, Monopoly, and Business Rights of the Senate Committee on the Judiciary.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF BOB W. DELAUTER

I am Bob W. Delauter, a Coca-Cola bottler from Portland, Indiana. I serve all of Jay and Blackford and Randolph Counties in Indiana, and most of Darke and Mercer Counties in Ohio, and Grant, Wells and Adams Counties in Indiana. My franchise area covers 128,960 people, in which the largest town is Greenville, Ohio with a population of 13,800.

The history of our plant is one of hope, progress and development.

On November 20, 1917, Orien E. Holsapple and his uncle, Jim Isenhardt, launched themselves into a new enterprise. On that date they became the sole owners of Portland Bottling Works, 317 West Main Street, Portland, Indiana.

The start was important because their new soda pop business brought them into contact with Mr. Luther Carson of Paducah, Kentucky, who was owner of the Coca-Cola bottling franchise in Fort Wayne, which included Portland and surrounding towns in its contract area.

Although the soda water business flourished, Mr. Holsapple was impressed with the growth of Coca-Cola on a national basis, and for six years sought a subcontract from Mr. Carson authorizing him to bottle and sell Coca-Cola in Portland. Finally, an agreement was reached between the parties in February, 1923, and the production facilities were moved from Hartford City, Indiana to 317 West Main Street in Portland. He tried to borrow money locally, but was turned down as it was considered a bad risk. Because the previous owner owed money to the Hartford City Bank and was in poor financial shape, his bank agreed to lend Mr. Holsapple the money to buy and move the company out of Hartford City to Portland. The purchase price was a total of \$2,200.00.

That first year in business, they sold a total of 240 cases of Coca-Cola, less than the amount of Lemon Pop we sold around the town square in Hartford City. At 80 cents per case, this amounted to a grand total of \$192.00, or \$3.70 per week. At that time, Coca-Cola retailed at 5 cents per bottle, or .96 cents per ounce. Today in the Ludwig's IGA Store in Portland, Coca-Cola can be purchased for one cent per ounce on sale.

In September 1938 we moved into a new modern building at 510 East Arch Street. I have here copies of the local paper commemorating that big day in the life of our company. On that day we had 265 customers, as listed on the back full-page ad of the paper. We employed eight people and were very proud of our contribution to them and

our home town. In 1961 we found it necessary to enlarge our facilities, and added 10,000 square feet, a 40 percent increase in size.

In 1969 we purchased the adjoining franchise at Union City, Indiana, and invested hundreds of thousands of dollars in new bottles, coolers and trucks. On that day we were selling 611,391 cases. Coca-Cola was selling at .75 cents per ounce. By promotion, hard work and efforts of loyal employees and customers, we grew at a rate of 35 percent the first year. We purchased thousands of dollars in coolers over the next ten years, and now are in the process of trying to build a new building to provide Coca-Cola for our 2,200 customers. Our employment has grown to eighty-three, and we sell ten times as much Coca-Cola per day as we did in the entire first year of our company in 1923.

Now I would like to retrace my steps to about July 15, 1971, the day the Federal Trade Commission sued the soft drink franchise companies and several bottlers. I had just purchased Union City Coca-Cola Bottling Company. I owed over a half million dollars, and had just been told, in effect, by the FTC that my purchase was practically worthless, because without franchise lines I could not afford to invest in coolers, signs, trucks and bottling equipment necessary to serve my customers. Although we are in a small, country area, we border some very large bottlers with much deeper pockets than mine, and in a price battle for customers we could not survive. Remember, in 1969 Coca-Cola was selling for .75 cents per ounce, some 22 percent less than when our company started in 1923. Thus, you see, the FTC attempt to assure competition between bottlers of Coca-Cola had a very hollow sound to me. What other product in the world was selling 22 percent cheaper in 1969 than in 1923? Where else could the consumer go and find such bargains?

In Portland, Indiana, we are about 65 percent returnable bottle sales, and the balance in nonreturnable bottles and cans. I am unable to produce some of these NR bottles and cans without investing about one million dollars in new equipment. The uncertainty of the FTC ruling over the last eight years has caused us to delay this investment at an increase in cost to us of about 10 percent per year. Even if I were 100 percent returnables, I would need to enlarge to take care of the 35 percent now served by customer-demanded convenience packaging.

The results of delay, inflation and uncertain legal prospects caused by the FTC ruling has been a major factor in the increased cost of my product to the consumer in Portland, Indiana since 1972. Actually, our price has increased as much since 1972 as it did during the first fifty years we were in business. FTC is not the sole cause of this, but certainly was a major cause. S. 598 will give me a clear understanding of the future where I can plan, build new efficient production, and continue to provide soft drinks at a price still available at about one cent per ounce. In today's world, that is still the best bargain in town.

It was made possible by the wisdom of my predecessors who designed the franchise system to assure a quality product, with wide availability, at a fair price. It was this system that demanded the life's work of several families, and the system that has created the most widely available, widely recognized enjoyed product in the world.

In January we went out to a supermarket in Indianapolis and purchased one each of every type, size, flavor and brand of refreshment available. We found over 395 different competing products and packages, not including milk, tea, coffee, beer or water. We were attempting to convey the tremendous competition for our customers' refreshment dollar. Some of these soft drink products were less than .77 cents per ounce. I would

be glad to furnish the Committee a photograph of that display if you desire it.

The point of my story is this: Our system works honestly, fairly and efficiently to the benefit of the consumer, the bottler and the marketplace. This is obvious, as evidenced by the fact that 395 different entries exist in that refreshment market. I know of no other business where the consumer has such a wide choice at such bargain prices.

The average soft drink bottler cannot survive without the franchise system. We are a unique industry with a different delivery system, a reusable package system, and a multitude of package sizes to satisfy any customer's needs. Our products are available in every place we can find, big or small, where thirst might exist. In today's real world, the franchise territories determine whether hundreds of local bottlers like myself will continue to insure availability of hundreds of products to thousands of retailers; or whether the soft drink industry will become a few, national corporations shipping a few major brands to supermarkets only.

Thank you for the opportunity to tell my story. Please promptly consider the proposed bill and pass it. Eight years is long enough. We need your help NOW.

(Mr. METZENBAUM assumed the chair.)

Mr. DECONCINI. Mr. President, yesterday I had the great privilege and pleasure of inserting in the RECORD a statement by Ernest Gellhorn, a distinguished professor of law at the University of Virginia Law School. Unfortunately, I did not have an opportunity to finish that statement.

At this time, I should like to proceed with a continuation of some of the remarks and points that Professor Gellhorn brought out. As the RECORD will indicate, I was one-third through the statement yesterday. For clarity in the RECORD, I ask unanimous consent that the first eight pages of the statement be printed at this point in the RECORD. Those were the pages I did have an opportunity to read aloud yesterday.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY PROFESSOR GELLHORN

The primary question raised by H.R. 3567 is simply whether territorial distribution arrangements—specifically the allocation of exclusive territories to franchised bottlers—should be allowed where substantial and effective competition exists among trademarked soft drink products. If, as I believe, the goal of antitrust is to protect and improve consumer welfare through competition, then this proposed bill is consistent with the antitrust laws.

Where substantial and effective competition exists among soft drink products, franchised bottlers would be allowed by this legislation to retain their historic territories to bottle and sell soft drinks without fear of lawsuit by the government or private claimants.

With the consumer protected by inter-brand competition, this bill would assure that soft drink producers could seek the benefits of vertical integration by contract. These contract arrangements are generally designed to increase the efficiency of each firm's distribution system; in a competitive market these efficiency gains should result in lower product prices or, at least in intensification of competition among branded competing soft drinks. On the other hand, where markets lack strong and vigorous competition, this legislation would have no effect. That is, the usual rules of antitrust

which measure such vertical arrangements under a rule of reason analysis would apply.

As will be described below, this proposed legislation is supported by the rationale of, and is consistent with, the Supreme Court's recent decision in *Continental T.V., Inc. v. GTE Sylvania Inc.*, 433 U.S. 36 (1977). It would, in other words, codify existing legal rules. Yet, as illustrated by the Federal Trade Commission's opinions in *Coca-Cola*, Dkt. No. 8855, and *PepsiCo Inc.*, Dkt. No. 8856 (FTC April 7, 1978), (the *Cola* cases), alternative interpretations apparently are possible. Thus without this legislation it may take years of litigation and numerous hearings and appeals to resolve the question. Adoption of H.R. 3567 would establish the legal standard in a way likely to protect the consumer interest.

An understanding of the role which H.R. 3567 would play in the antitrust laws requires analysis of these laws and the practices they prohibit. In serving the consumer interest, the antitrust laws seek to prevent individual firms, either acting alone or with each other, from restricting output and thereby raising price (or its equivalents) above competitive levels. Reduced to their primary elements, two practices are attacked by the antitrust laws: (1) collusion among competing sellers to raise prices directly or indirectly; and (2) individual or group efforts to exclude other sellers from competing and thereby to gain a larger share of the market.

Under this framework, collusive practices have been banned by legal prohibitions of price fixing and market division. Each involves a horizontal agreement by competing firms where the effect on rivalry has seemed clear and little justification could be offered. Thus, per se rules have been applied to make such horizontal agreements illegal without further consideration of their purpose, justification or effect. However, where the horizontal arrangement does not fit within these categories—such as a trade associations public distribution of market statistics from its members, or a cooperative program of institutional advertising by all or some firms in an industry—the courts have applied a more lenient rule of reason test in order to determine whether some justification might support the practice and whether it outweighs any adverse effects. When this latter rule of reason measure is applied, the courts usually examine the purpose of the arrangement, the market power of the participants and the effect of the arrangements on competition.

A similar approach has been followed in examining exclusionary practices by individual firms (monopolization or attempts to monopolize) or joint actions such as vertical tie-in agreements, horizontal group boycotts and similar arrangements. In situations where the exclusionary practice raises serious antitrust questions, those in or seeking a monopoly position are trading today's monopoly returns for a larger share of the market by making it unprofitable for others to compete with them. Here the law is in a state of flux as both per se and rule of reason tests are applied.

One reason for this lack of legal clarity, especially in regard to the rules governing territorial restrictions in vertical distribution arrangements, is that the courts and agencies have often tried to borrow antitrust concepts developed for collusive horizontal practices. However, they have applied these horizontal rules without careful consideration of their analytical foundations or whether they have any relevance for vertical agreements whose only possible harm could be exclusionary. On the other hand, many, perhaps almost all, vertical restraints are designed for another purpose. That is, rather than being aimed at restricting output, their likely goal is to increase firm efficiencies. For example, vertical sales restrictions re-

quired by firms without market power are generally conceded as having no possible effect on price or interfirm competition; yet the aim and result of horizontal sales restrictions are to restrict output and thereby to affect price. It is therefore not surprising that attempts to apply horizontal, per se, rules to their vertical counterparts have proved unsatisfactory and been unstable.

As will be explained below, this borrowing of horizontal case rules to vertical arrangements without qualification was first developed in the area of vertical price fixing. Subsequently, it was extended to territorial and customer allocations. In both areas the horizontal case rules are clear. Price-fixing among competing firms has been condemned on a per se basis without regard to the reasonableness of the prices, any justification for the arrangement, or other supposed beneficial effects, since 1897. See *United States v. Trans-Missouri Freight Ass'n*, 166 U.S. 290 (1897); *United States v. Trenton Potteries Co.*, 273 U.S. 392 (1927); *United States v. Socony Vacuum Oil Co.*, 310 U.S. 150 (1940). Horizontal agreements to divide markets by allocating exclusive territories, assigning customer classes, or like arrangements similarly provide participants with an opportunity to restrict output and thereby to raise prices. Therefore, beginning in 1898 courts have condemned such territorial restrictions under increasingly rigid per se rules. See *United States v. Addyston Pipe & Steel Co.*, 85 Fed. 271 (6th Cir. 1898); *Timken Roller Bearing Co. v. United States*, 341 U.S. 593 (1951); *United States v. Sealy, Inc.*, 388 U.S. 350 (1967); *United States v. Topco Assoc., Inc.*, 405 U.S. 596 (1972). The application of these rules to similar vertical arrangements has long been criticized and with telling effect in recent years, at least in regard to vertical territorial restraints.

The development of the law regarding restrictions on the distribution of goods and services began with early efforts by manufacturers to set prices below which retailers could not subsequently resell their products. In the still leading case of *Dr. Miles Medical Co. v. John O. Park & Sons, Co.*, 220 U.S. 373 (1911), the Supreme Court ruled that a manufacturer who sells medicine to a wholesaler is not entitled to restrict resale through interference with the purchaser's pricing decisions. It relied on ancient property law rules making restraints on resale invalid. Where the purpose of the arrangement is to destroy competition by fixing prices, the Court held, the restraint is "injurious to the public interest and void." In reaching this result, the Court equated vertical price-fixing with horizontal cartel behavior. Since the latter was per se illegal, it followed that resale price maintenance was similarly prohibited.

The Court's assumption that a manufacturer's interest in eliminating price competition among its resellers is based on the same motives and consequences as those by resellers in forming a cartel, however, was badly flawed. That is, unless forced to do so by his retailers, the manufacturer would seem to have no interest in assuring retailers a monopoly profit, especially since it would be done at his expense. As one leading antitrust critic has correctly observed, a "rule of per se illegality was thus created on an erroneous economic assumption." R. Bork, *The Antitrust Paradox* 33 (1978).

Perhaps recognizing the infirmity of its own rule, the Supreme Court shortly cut back its prohibition of vertical price fixing by creating an exception to the per se rule in *United States v. Colgate & Co.*, 250 U.S. 300 (1919). There the Court allowed a manufacturer to control resale prices by the simple expedient of announcing his intention not to sell to price-cutters and then unilaterally refusing to sell to any retailer who failed to comply. However, the exception, which was based on the absence of any

agreement essential to a Sherman Act contract, combination, or conspiracy, quickly proved illusory.

Mr. DeCONCINI. Mr. President, I will take up where I left off.

Subsequent cases established that the "fatal element of agreement" might be found in price discussions with retailers, in their assurance that they could comply with the condition, or in the reinstatement of errant dealers after a disciplinary waiting period.

The Dr. Miles approach to vertical price fixing—that it denied the retailer his "right" to resell his property—led to another exception where the retailer was the manufacturer's agent and, instead of taking title, received the products on consignment. Thus in *United States v. General Elec. Co.*, 272 U.S. 476 (1926), the Court held that where it is clear that the arrangement is legitimate and that the manufacturer both retains title and bears substantial risks of ownership, the antitrust laws do not prevent him from dictating the terms of sale, including retail prices. In this circumstance the Court held that vertical price fixing is not illegal.

Here too the exception provided unreliable. First the legitimacy of consignment arrangements was attacked, the question being whether the retailers were in fact the manufacturer's agents. And then in *Simpson Oil v. Union Oil Co.*, 377 U.S. 13 (1964), the Court ruled that an oil company supplier had violated the antitrust laws by fixing the retail prices of its service station-consignees because the consignment arrangement was being used as a device to "coerce" nominal agents "who are in reality small struggling competitors seeking retail gas customers." Whether any form of consignment now provides safe passage for resale price agreements is uncertain. They were approved for non-price restraints in *United States v. Arnold Schwinn & Co.*, 388 U.S. 365 (1967), where the consignment provided that "title" dominion and risk" remained with the manufacturer, and this part of the *Schwinn* decision was not overturned in *Sylvania* (discussed below).

The rigidity of the rule against all price-fixing is further shown by the Court's restatement of the rule in *Abrecht v. Herald Co.*, 390 U.S. 145 (1968), when it held that a publisher's effort to fix maximum resale prices charged by independent newspaper carriers was illegal per se. The Court was unmoved by the fact that such price fixing seemingly protected the consumer's interest and was justified by the paper's independent interest in keeping prices down (to increase circulation and advertising revenues).

The continued strength of the per se rule against vertical price fixing was further revealed in 1977 in the *Sylvania* decision. Even though the Court there recognized that vertical restrictions serve different purposes from horizontal cartels, it expressly reaffirmed its earlier commitment to a per se rule against vertical price fixing. 433 U.S. at 51 n.18. On the other hand, the Court did support a different rationale for its early ruling in Dr. Miles prohibiting resale price maintenance, namely that it reduces "price competition not only among sellers of the affected product, but quite as much between that product and competing brands." About all this suggests, however, is that the Court may ultimately back away from its rule against maximum price-fixing. Accord, Pitofsky, *The Sylvania Case: Antitrust Analysis of Non-Price Vertical Restrictions*, 78 Colum. L. Rev. 1, 16 n.59 (1978).

With the opportunity for vertical price restrictions essentially proscribed, especially after the "fair trade" law exception for the states was repealed in 1976, attention has focused on other distribution restrictions and in particular on manufacturer limitations on dealer territories and customers. Until the 1940's these arrangements were not challenged by the government and their

lawfulness was upheld in several private actions. Then in 1948 the Department of Justice, relying on a Supreme Court opinion holding vertical territorial restrictions illegal per se if they were an integral part of an agreement to fix prices (*United States v. Bausch & Lomb Optical Co.*, 321 U.S. 707, 721 (1944)), announced that it would henceforth treat simple vertical territorial and customer restraints foreclosing intrabrand competition on the same basis. For several years this position went unchallenged; consent agreements negotiated by the Department of Justice enforced this view, but no case supported its position. However, during the past fifteen years the law has swung violently, from uncertainty to per se illegality and more recently to a flexible rule of reason approach, in three very different Supreme Court opinions.

Seemingly overturning the Justice Department's contention, the Court first reversed a summary judgment holding vertical territorial and customer restrictions illegal per se. *White Motor Co. v. United States*, 372 U.S. 253 (1963). *White Motor* had sold its trucks to dealers who agreed to resell them to customers not otherwise reserved to the manufacturer and who had a place of business within the assigned territory. Because of the meager summary judgment record and the Court's admitted inexperience with franchise limitations, the Court concluded that it did not "know enough of the economic and business stuff out of which these arrangements emerge" to be certain whether they stifle or invigorate competition. It therefore remanded the case for a trial on the merits. The opinion was widely interpreted, however, as adopting a rule of reason approach to vertical limitations—especially since three dissenters called for a per se rule. In fact the Court carefully held "that the legality of the territorial and customer limitations should be determined only after a trial." Following remand the case was settled, and the Court therefore did not have an opportunity to develop a rule on a full record.

It seemed, nevertheless, that a rule of reason approach would be applied as two Courts of Appeals subsequently upheld territorial restraints, and in each instance the court overturned a stringent Federal Trade Commission decision in order to apply a more flexible test. See *Sandura Co. v. FTC*, 339 F.2d 847 (6th Cir. 1964) (territorial restraints used in rebuilding a dealer organization after its market position had deteriorated); *Snap-On Tools Corp. v. FTC*, 321 F.2d 825 (7th Cir. 1963) (manufacturer was one of 80 firms in an intensely competitive industry with high dealer turnover). As indicated, each case presented appealing facts to support the territorial restrictions. And in light of subsequent developments, it is particularly noteworthy that neither *White Motor* nor the circuit court cases paid heed to the doctrinal distinctions developed in the vertical price fixing cases, namely, whether the provisions violated property law rights to resell property or whether title was retained by the manufacturer.

When the next case before the Supreme Court four years after *White Motor*, the government retreated somewhat from its per se position and argued, in its brief, for a rule of presumptive illegality which would have required the defendant to justify any territorial restrictions. It thus came as a surprise to antitrust followers when, in *United States v. Arnold Schwinn & Co.*, 388 U.S. 365 (1967), the Supreme Court adopted a position even more restrictive than that put forward by the government. In condemning nonprice vertical restrictions, the Court ruled that "once the manufacturer has parted with title and risk . . . his effort thereafter to restrict territory or persons to whom the product may be transferred . . . is a per se violation of § 1 of the Sherman Act." Relying on the

same rationale used a half-century earlier in Dr. Miles to condemn vertical price fixing, the Court said that such restrictions violate the "ancient rule against restraints on alienation." Thus the Court concluded that "under the Sherman Act it is unreasonable without more for a manufacturer to seek to restrict and confine areas or persons with whom an article may be traded after the manufacturer has parted with dominion over it."

With this sweeping language the Court "threw into doubt the legality of every sort of post-sale vertical restriction on distributions other than exclusive dealing arrangements, regardless of the type of restriction or the market power of the supplier and dealers." Pitofsky, supra at 6. Not surprisingly, this abrupt change of direction drew a spate of criticism seldom matched in a decade of bitter debate about various antitrust rulings of the Supreme Court. See, e.g., Handier, *Twenty-Five Years of Antitrust*, 73 Colum. L. Rev. 415, 458-59 (1973) (*Schwinn* is "the most egregious error in all of antitrust."); A.B.A. Antitrust Section, *Monograph No. 2, Vertical Restrictions Limiting Intra-Brand Competition* 9 n.24 (1977) (citing other criticisms).

Nor was all criticism mere hyperbole. As numerous scholars, both lawyers and economists, patiently explained, vertical territorial restrictions serve many useful ends, usually to increase distributional efficiencies and lower costs. While occasional theoretical possibilities may exist for the misuse of such restrictions, primarily to facilitate horizontal cartels by manufacturers or retailers, the risk seems insubstantial where substantial and effective interbrand competition exists. That is, where firms selling different products compete vigorously, efforts by individual firms to achieve market efficiencies should be encouraged. The market will become even more competitive as a result, and in any case no individual firm's marketing strategy can have an adverse effect on competition in that circumstance. Moreover, since other avenues for vertical integration are open—especially by internal growth—barring integration by contract would be futile, except that it might force a manufacturer to select a less efficient distribution scheme (reducing competitive pressures) and in fact foreclosing opportunities for smaller retail firms.

As this analysis makes evident, whether vertical restrictions on distribution by customer and territory should be allowed is unrelated to the manufacturer retention of title or the dealer's appointment as his agent. Thus it seemed anomalous or worse to have the Supreme Court resolve a question of economic policy by resort to ancient (and unrelated) property law rules governing resale of personal property. The policy question is whether these restraints serve to make product distribution more efficient and interbrand rivalry more vigorous. To allow legal formalisms developed three centuries earlier for another purpose to dominate and decide antitrust law seemed absurd. With such an unstable base, it was only a question of time before the *Schwinn* per se rule would be distinguished and restricted.

Again, however, the process was not gradual and business was not allowed time to adjust and react. Rather, the law was changed abruptly and without warning by the Supreme Court. In the next case to reach its docket, shortly after the tenth anniversary of the Court's application of a per se rule to vertical territorial restrictions in *Schwinn*, the Court sharply reversed its direction, directly overruled *Schwinn*, and applied a rule of reason for every sort of non-price vertically imposed dealer limitation. Although the case in fact involved dealer store location clauses, the Court's opinion was not so limited and it appeared to suggest that a flexible rule of reason test—balancing the benefits (in particular, business efficiency) against demonstrated costs—was

to be applied in almost every circumstances where nonprice vertical restraints are under challenge. The critical factor in *Sylvania* was the Court's clear recognition that several significant efficiencies could be achieved by distribution restrictions. Among those cited by the Court are retailer investments, promotional activities, and quality controls. In reaching this result, the Court recognized the economic interests of competing suppliers and the value of allowing them almost untrammelled freedom in deciding which distribution system will serve their interests (and those of their customers). And it appeared to hold that the burden was on the government to show that the competitive "costs" overrode those possible gains.

That the Supreme Court announced a broad and flexible rule of reason test for nonprice vertical restrictions in *Sylvania* is indisputable. But as always seems to be the case with legal issues, or at least those involving antitrust, questions remained. The case, for example, involved location clauses which usually have only slight intrabrand effects—but the Court expressly chose not to limit its discussion so narrowly. In addition, the respondent accounted for less than five per cent of the market; thus the clause could not have had a serious interbrand impact. Yet the Court appeared to place no reliance on *Sylvania's* size or market share as long as interbrand rivalry was present. Indeed, the Court specifically indicated that a supplier's market power would not justify reliance on a per se rule. 433 U.S. at 46 n. 12. On the other hand, in a final passage seemingly constructed to assure a solid majority, the *Sylvania* Court carefully reserved the possibility that some vertical restrictions might justify per se prohibition in particular applications and that others might not survive a case examination of their competitive effects. Neither situation, however, was explained, although it seems difficult to image what circumstances the Court has in mind (if any).

These uncertainties were expanded and compounded by the Federal Trade Commission's recent decisions in the *Cola* cases, that the territorial restraints historically required of franchised bottlers are unreasonable and violate Section 5 of the Federal Trade Commission Act. There the Commission's law judge had approved the legality of territorial provisions in trademark licenses to bottle and sell Coca-Cola and Pepsi-Cola. After making over 200 detailed findings of fact, he determined that the effect of the restraint on intrabrand competition among bottlers of these brands was far outweighed by its beneficial effect on competition in the marketplace as a whole. He therefore concluded that on balance the challenged territorial restrictions promote competition.

Two and one-half years later, a two member majority of the FTC, over the dissent of the other Commissioner participating in the decision, ruled that the territorial provisions were illegal because they eliminated intrabrand competition. In order to reach this result the majority first decided, as a matter of law, that the burden was on Coca-Cola and PepsiCo and their bottlers to demonstrate that the business justifications and the effect of the provisions to foster competition with other soft drinks outweighed any loss of rivalry among the bottlers. And this burden, the two person majority held, had not been met by the respondents. Even so, the majority recognized that the territorial provisions were justified when first adopted and all participating Commissioners found that the clause did not involve horizontal collusion or other per se illegal conduct.

Whether the FTC's opinion in the *Cola* cases has improperly misconceived and misapplied the *Sylvania* standard for nonprice vertical restrictions such as the territorial

provisions common in the soft drink industry—even under the limited judicial review standard applicable to administrative agency decisions—is now before the District of Columbia Court of Appeals and prediction of the legal outcome would be gratuitous. As a matter of antitrust policy, however, affirmation would seem a disturbing backward step and a retreat to the illogic of *Schwinn's* per se approach. For the essence of the Federal Trade Commission's two member position is that admittedly efficiency enhancing territorial provisions will not be saved if the intrabrand effect is not insignificant. The Commission's rule would place the burden on the respondent—a burden which few seem likely to satisfy—and in direct opposition to settled antitrust doctrine as well as the provisions of the Administrative Procedure Act. See 5 U.S.C. § 556(d).

That this approach misunderstands the Supreme Court's purpose in *Sylvania*—which has been so highly praised by every commentator (of whatever persuasion)—seems clear. There, it will be recalled, the Court found that the consumer welfare is best served by promoting interfirm competition. And if that competition is substantial and effective, as was undisputed in the *Cola* cases, then internal efforts to achieve efficiency can only be procompetitive and beneficial to consumer interests (even though intrabrand competition is eliminated). To prohibit such efforts to achieve vertical efficiencies runs the risk that competitive vigor will be diminished and consumer welfare decrease. It also places undue emphasis on the elimination of intrabrand rivalry, an automatic but unusually insignificant casualty of every move toward vertical integration.

The Commission's decision in the *Cola* cases is also disturbing for the instability it has reintroduced to the rules governing nonprice vertical restrictions just one year after the Supreme Court sought to resettle matters in *Sylvania*. Instead of focusing its attention on the use of such restrictions where interbrand competition is limited and therefore more deserving of careful scrutiny, the Commission has sought to read the rule of reason standard so as to condemn restrictions which should be of no concern—when competition is substantial and effective.

In reviewing the primary substantive provision of S. 598—Section 2's directive that territorial customer restrictions in trademark licenses for soft drink products are not unlawful under the antitrust laws if substantial and effective interbrand competition exists—three questions need to be addressed: (1) what is the meaning of S. 598? (2) what is the relationship of S. 598 to the Supreme Court's decision in *Sylvania*? and (3) what will be the likely effect of S. 598 if adopted?

The operative provisions of S. 598 regarding the legality of nonprice vertical restrictions are simple and forthright. The bill is limited, first, to trademarked soft drink products where similar provisions have been relied upon for decades to support a large industry. Second, the proposed legislation only applies to territorial and customer restrictions. It does not involve other vertical restrictions such as price fixing or tie-ins which are usually subject to more stringent legal constraints. Rather it would govern in an area of well accepted territorial and customer restrictions whose purposes have been carefully considered and thoroughly explored, with the result that they are generally viewed as enhancing competition. Finally, and most importantly, S. 598 would protect such contract clauses from antitrust liability only where "substantial and effective competition" exists. That is to say, there must be vigorous rivalry among competing soft drink products before relationships between the syrup manufacturer (and trademark owner) and the bottler are protected by this legislation. The result of S. 598, then,

is generally to limit the required inquiry, at least initially, to a determination of whether such competition exists. If that finding can be made, the practice would be upheld. On the other hand, if this level of competitive activity cannot be found, the restrictions would be subject to the *Sylvania* tests.

Mr. President, I will be glad to yield to the Senator from South Carolina.

The PRESIDING OFFICER (Mr. LONG). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I will now continue the address I began yesterday on the subject of the bottlers bill:

Coca-Cola Company USA does likewise in franchises covering about 14% of the population. These Pepsi-Cola Company-owned franchises include Boston, New York, Newark and almost all of New Jersey, Philadelphia, Detroit, Pittsburgh, Dallas, Houston, Los Angeles, Phoenix, Las Vegas and Orlando/Daytona. The Coca-Cola Company-owned franchises include Boston, Chicago, San Francisco, Columbus, Toledo, Baltimore and Bellvue (Seattle). The FTC decision now permits, and indeed seems to require, the syrup manufacturers to compete with their independent bottler franchisees anywhere in the country.

Why will the FTC decision lead to concentration in the industry and with that concentration the demise of the returnable bottle? The reasons are manifold and, in our opinion, relatively obvious. We shall briefly examine a few of the more important ones.

Perhaps the most powerful economic force in accelerating concentration would be the incentive of the large syrup manufacturers to exploit a greatly enhanced opportunity to increase their market share, thereby increasing dual profits.

The syrup companies already realize a significant degree of dual profit, first from the syrup they sell to their independent bottlers and, secondly, from the sale of the finished products manufactured by their company-owned franchised plants. Without territorial restrictions the syrup companies will find the temptation irresistible to expand their company-owned bottling operations and thereby claim a greater share of market and overall profits generated by the sale of soft drinks to the public.¹

Such expansion will be facilitated by the ease whereby the syrup manufacturer can reap all the profit available by raising the price of the syrup, both to its own bottling subsidiaries as well as its independent franchisees. This classic "price squeeze" has been described by Dr. Jesse W. Markham, professor of Economics at Princeton University and former chief economist of the Federal Trade Commission, in testimony before the House Small Business Committee:

"The vertically integrated firm can use the market power it has in the preceding stage to attain approximately the market share it desires in the subsequent stage by manipulating the prices at which it supplies itself and its customers with which it competes. When it wishes to expand its share of the market at the subsequent stage it simply raises the price at which it supplies both itself and its competitors, but holds the price line at the later stage. Competitors cannot pass on the price increase without driving

¹ The point was made in one of the appeal court briefs that: "Ironically, it could be argued that the Commission orders . . . would require such expansion, in that they prohibit The Coca-Cola Company and Pepsi Co. from 'continuing' or 'maintaining' any 'understanding' or 'agreement'—even with their subsidiary bottlers—to limit territories." Brief of Intervenor, Coca-Cola Bottling Company of Los Angeles, et al., p. 8.

customers to the integrated firm. The integrated firm, which by strict accounting may be incurring losses at the later stage, is making gains to offset them on its operations at the earlier stage. On its total operations it may be making a satisfactory rate of return. The unintegrated competitors, having no previous stage operations to draw on, simply operate at losses that may eventually drive them out of the business altogether. This strategy is known in the economic literature as the 'price squeeze' . . . Hearings on the Impact Upon Small Business of Dual Distribution and Related Vertical Integration Before the Subcomm. No. 4 of the House Select Comm. on Small Business, 88th Cong., 1st Sess., vol. 1 at 50 (1963).

We have been told that "price squeeze" conduct of the kind described is unfair competition and probably unlawful, and that independent bottlers injured thereby could sue to prevent it or to recover damages if harmed thereby. However, if artfully employed it would be difficult to apprehend, at least before it was too late to prevent a devastating loss of market share by the affected independents. Moreover, resort to litigation against Coke or Pepsi by an independent bottler is about as attractive as it is for a small computer firm to sue IBM.

Another important factor leading inexorably to concentration in the industry and the disappearance of the returnable bottle is the aversion of the supermarkets to store door delivery and the stocking of returnable bottles. There are a number of reasons why supermarkets do not like returnables. They take up more shelf space, and the process of receiving and redeeming returnables in checkout lanes and storing empties until pickup by the bottler is viewed as an unwelcome nuisance. More important, perhaps, is the fact that supermarkets prefer central warehouse delivery of all inventory so that they can control the flow of merchandise into the retail outlets. One central warehouse may serve all stores in a chain within a radius of 100 to 300 miles located in many different municipalities and counties and several states, and, in the soft drink industry, many different franchise territories. If a large supermarket chain had its preference, it would almost always be to deal with one supply source for each of the soft drinks it opted to stock in its retail stores and to receive delivery at a central warehouse serving many retail outlets. This, of course, virtually impossible under the present exclusive territory system which imposes on each bottler the obligation to limit the sales of the product within the confines of his territory. This is a principal reason for store door delivery.

Exclusive territorial rights and store door delivery are concomitants which make possible the continued high level use of returnable bottles in our industry. Even the FTC recognized that exclusive territories were necessary for returnables, because of the need for a bottler to control his glass "float" within a discrete area when it limited its order invalidating vertical restrictions to non-returnable packages. However, what the Commission failed to recognize is that no independent bottler can continue profitably to use returnables after his supermarket accounts are no longer required to accept store door delivery and have ceased doing business with him in favor of a large supplier (and, most logically, the bottler's own franchisor) shipping cans and non-returnable bottles over long distances to a central warehouse.

The economic and marketing characteristics of our industry are such that a substantial level of returnable bottle sales can be achieved and maintained profitably only in conjunction with a mix of non-returnable package sales. Let's confront reality as consumers. Non-returnables, particularly cans, have various convenience features. They are easier to store, taking up less space in the refrigerator or in the kitchen closet. When

used, they can be thrown away and need not be brought back to the store. They are obviously more convenient than bottles on a picnic or camping trip. The returnable bottle can overcome these advantages only through strong promotion utilizing feature price advertising. Earlier in our statement, we noted the result of the Majers study finding carbonated soft drink beverages ranking second in newspaper price promotion ads of 45 leading food store products. Almost three-fourths of these ads feature an attractive price for the returnable bottle.

The survey found that, in 1977, the consumer was paying \$0.0079 per ounce of Pepsi in the 16-oz. returnable bottle in contrast with a price of \$0.0156 per Pepsi in the 12-oz. can, or 97% more. But this price advantage is made possible only if the bottler can exercise the leverage his exclusive territorial rights give him with the supermarkets in his territory to cause the latter to stock and promote the returnable bottle. The use of the returnable bottle is both capital and labor intensive, considerably more so than non-returnables. The returnable bottles can be sold at a lower price than the competing packaging forms only if volume and velocity are high. When volume and velocity decline through loss of supermarket accounts, the cost to the consumer will rapidly rise. When the price advantage to the consumer disappears so too will the returnable bottle disappear.

Another cause for concern for the returnable bottle posed by concentration in the industry as the result of the FTC decision is that the movement to concentration will most surely be led by the large syrup manufacturers and their wholly-owned bottling subsidiaries, which already control many major markets. At least in the case of PepsiCo, there appears a strong disinclination to use the returnable bottle. Report data by Majers from the year 1977 on Pepsi advertising activity in the north eastern sector of the country—namely, New York-Newark, Philadelphia and Boston markets exclusively controlled by Pepsi-Cola Company-owned franchise subsidiaries—reveal no price ads in the economical 16-oz. returnable bottle.

If one needs further evidence of how availability of non-returnable packaging and lack of territorial restraint combine to result in market concentration, we can look at the beer industry.

The history of the brewing industry since World War II demonstrates the positive relationship between concentration and the decline of the returnable bottle. In 1945, there were 457 breweries, almost all local and regional firms. Eighty-five percent of beer sold was in the returnable bottle. By 1977, the number of breweries had declined to 47 (Exhibit 3), and the use of returnable bottles was down to 12 percent (Exhibit 4). In 1947, the five largest breweries controlled only 20 percent of the market, but, by 1977, the top five had a 70 percent market share (Exhibit 5). Miller and Anheuser-Busch serve the entire country mostly with cans and non-returnable bottles shipped long distances, from a few strategically located plant sites. (Exhibits 6 and 7). At present there are 1833 independent soft drink bottlers. However, PepsiCo and Coca-Cola, and now Seven-Up (recently acquired by Philip Morris, which also owns Miller Beer) are now positioned under the FTC decision to do the same thing in the soft drink industry which the large brewers have done in the beer industry.

If the FTC decision becomes effective, the ease by which our franchisor, PepsiCo, can vertically integrate its soft drink operations, beyond its present substantial status, is enhanced because of PepsiCo's recent acquisition of a large motor carrier, Lee Way Motor Freight. Lee Way's resources include 5,000 tractor trailer trucks, 85 terminals and

service to more than 3,000 cities and towns. For example, look at the State of Ohio where every Pepsi franchise is independently owned.

PepsiCo, through its trucking subsidiary, now owns eleven terminals located throughout the State, including every major population center, and also owns the Pepsi bottling franchises in Detroit and Pittsburgh. Without territorial restraints, PepsiCo can easily serve every chain store central warehouse in Ohio in its own trucks with non-returnable cans from its Detroit or Pittsburgh plants, or, if it desires, from one or more new facilities it could build and operate within the State. How, we ask, is the independent bottler to survive under these circumstances, bearing in mind that our sole supplier of syrup will then be our major competitor?

An exhaustive study entitled "Materials and Energy from Municipal Waste," recently released by the Office of Technology Assessment, Congress of the United States, contains the following comments in support of our views (p. 236):

"If upheld by the courts and not amended by the Congress, the recent FTC decision, which outlaws territorial franchise restrictions for trademarked soft drinks in non-returnable containers, could lead to rapid concentration of that industry. The outcome would be an industry with only a few large plants, as well as the rapid disappearance of the refillable bottle for soft drinks."

Another commentator, Stephen Breyer, Professor of Law, Harvard Law School, and now Chief Counsel, Senate Judiciary Committee, wrote following the oral argument on the appeal from the FTC Decision:

"The companies' strongest argument is that the Commission, in permitting territorial restrictions for returnable bottles, has acted inconsistently and without adequately examining the evidence. The companies claim that the very fact that the Commission allows territorial restrictions for returnable bottles shows that the Commission accepts the 'returnable bottle' justification as procompetitive and desirable. The Commission wishes to encourage their use, yet the companies claim that unless territorial restrictions for all bottles are allowed, the bottlers will be unable to use returnables. Although both the hearing examiner and the Commission considered evidence related to returnable bottles, there apparently was no consideration of whether or not returnable bottles could survive under the 'split relief' that the Commission ordered." (Italic added.) Update on the Soft Drink Cases, Stephen Breyer, Consultant Martin Romm, The First Boston Corporation, December 1978.

In our opinion, the question is not whether the returnable bottle will disappear if the FTC decision becomes effective, but how quickly this will occur. We commissioned Mr. Emanuel Goldman of Sanford C. Bernstein & Co., Inc., New York City, a recognized expert securities analyst specializing in the brewing and soft drink industries, to analyze the question. Mr. Goldman is with me here today and available to answer any questions you may wish to direct to him. We are attaching to this statement his affidavit filed in the litigation commenced by our Florida subsidiary against the FTC (Exhibit 8).

Mr. Goldman finds "that elimination of territorial exclusivity for cans and non-refillable bottles will result in a decline of at least 5 percentage points a year and perhaps as high as 10 percentage points per year in the share of market accounted for by returnable containers. This would result in the elimination of the returnable bottle as a viable form of package in the soft drink industry within four to eight years."

He attributes the disappearance of the returnable bottle primarily to the loss of supermarket accounts by the independent bottlers

after territorial rights are no longer enforceable. He estimates the present bottle "float" at approximately four billion bottles with an annual replenishment rate of new returnable bottles at one billion. If there is a 50 percent reduction in rate of replenishment, total exhaustion of the "float" will occur in eight years; with no replenishment, the "float" will be consumed in less than four years.

Mr. Goldman concludes: "If the returnable market share declines at a rate of 5 percentage points per year, we will, by 1982, have added 32.0 billion additional nonreturnable containers to our solid waste stream. In the event of a 10 percentage point decline, the number of additional one-way bottles and cans would be 63.8 billion."

EFFECTS ON THE ECONOMY, ECOLOGY AND ENERGY CONSERVATION

Our statement from this point forward proceeds on the assumption that the returnable bottle will disappear if the FTC decision is implemented. The effect of that occurrence on the economy, our environment, and energy conservation goals is truly shocking.

THE ECONOMY

The carbonated soft drink beverage industry generates \$15 billion in annual sales. It is twice the size of the beer industry. Soft drinks are the number one dollar volume sales item in food stores, constituting 4.1 cents of every sales dollar. Based on 1978 food store sales of \$164 billion, \$6.724 billion was spent on soft drinks of which 41.5 percent were refillable containers. If refillables are eliminated, the minimum cost to the consumer based on Majors survey data, will be an additional 52 percent or an increase of \$1.45 billion every year for carbonated soft drinks.

INTERACTION OF BCDL AND THE FTC DECISION

It has been suggested that even without territorial restraints a high level usage of the returnable bottle can be maintained through the enactment of Beverage Container Deposit Legislation (BCDL). Regardless of the merits of BCDL, and whether it will ever achieve widespread enactment, it will not for long prevent the demise of the returnable bottle if territorial restrictions are eliminated.

The OTA, in its previously cited report to Congress, considered the interaction of Beverage Container Deposit Legislation and the FTC decision. Greater use of the refillable container is a stated objective of BCDL and supported by OTA. The report suggests that BCDL could help slow any trend to regional bottling stimulated by the FTC decision. "BCDL would undercut the economic advantage of centralized bottling, which is limited to nonreturnable containers. (The heavier weight of refillables and the need to back haul empties discourages their centralized bottling.) Thus, BCDL might slow any trend toward elimination of local bottlers," p. 234. [Emphasis added.]

It becomes readily apparent that the OTA recognizes the potential for the two disastrous results of the FTC decision we have discussed (concentration and the demise of the returnable bottle), and attempts to project BCDL, not as a solution to the problem, but only as a temporary barrier to an ultimate negative result.

The report states: "Since BCDL would decrease the economic advantages of centralized brewing, bottling and wholesaling, the current trend toward a small number of large firms in beer and soft drink production might be slowed. By making the refillable bottle more attractive economically, BCDL could help preserve smaller, local bottlers. Legislation now under consideration to preserve the territorial franchise system could help maintain the refillable bottle's current market share," p. 17. [Emphasis added.]

We are pleased, parenthetically, that an arm of Congress recognizes the extremely

negative implications of removing territorial restrictions in the soft drink industry.

Granted, as the OTA predicts, BCDL might slow the trend to regional bottling stimulated by the FTC decision. However, without exclusive franchise boundaries in the soft drink industry, concentration will still occur and the refillable bottle will disappear. This is what the experience in Oregon indicates.

THE OREGON STORY

We decided to find out what has occurred in Oregon—the only mature BCDL state. After the enactment of BCDL in Oregon, the brewing industry sales market share was still well in the hands of the two "local" breweries—Blitz-Weinhard and Olympia—and, at the end of 1974, 96% of all sales in Oregon were in refillable containers. At the end of 1978, or 4 years later, concentration by national companies had occurred (Miller Brewing was No. 1 in sales) and refillable container sales had declined by 48.1% down to 49.8% (Exhibit 9). Miller, the No. 1 selling beer, sold no refillables. By June 1979, further concentration occurred after Blitz-Weinhard had sold out to Pabst, and 4 of the top 5 in sales shares were national companies, with a combined 63% market share. By June 1979, the refillable sales share had fallen to 36% of sales in the brewing industry. (Exhibit 10.)

On the other hand, in the soft drink industry, with exclusive franchise territories and the absence of concentration, refillable bottle sales were still at 80% of food store sales at the end of 1978. This proves that exclusive franchise territories inhibit concentration and keeps viable the refillable container, and that without territorial restrictions, BCDL will not save the returnable bottle.

IMPACT ON ENVIRONMENTAL AND ENERGY CONSERVATION GOALS

Franklin Associates, Ltd., consultants in resource and environmental policy and planning, were commissioned by our company to study the energy and environmental impacts associated with the demise of the returnable bottle. A copy of their final report, dated February 14, 1979, accompanies this statement as a part hereof.

In conducting the study, Franklin relied on the scenarios regarding the disappearance of the returnable bottle developed by Emanuel Goldman. Franklin examined the impacts associated with soft drink delivery in the various container types, including all manufacturing operations beginning with raw material extraction, proceeding through processing, manufacturing, use, and final disposal of the container and secondary packaging, and including filling and transportation. This systems analysis is structured to determine all inputs and outputs at each stage of the container's "life cycle." Then, these data condense into several basic impact categories. These categories serve as the basis for determining the overall effect on environmental quality. They are listed below:

- Total Energy Consumption.
- Energy Source Summary.
- Raw Materials Consumption.
- Air Pollutant Emissions.
- Water Pollutant Discharges.
- Industrial Solid Waste.
- Postconsumer Solid Waste.
- Process Water Requirements.

The Franklin report describes in detail the methodology employed and quantifies in appropriate units of measure the adverse impact on the environment (including depletion of natural resources) and energy sources associated with replacement of the returnable bottle with the other commonly used nonreturnable package forms. The popular equivalency expressions of these impacts or losses are described as follows:

Total energy: Equivalent to the electrical energy consumed by a city of 100,000 in 34 to 69 years; plus

Natural gas: Equivalent to the natural gas requirements for heating 100,000 midwestern homes for 2.4 to 4.9 years; plus

Petroleum: Equivalent to imports of 65 to 129 millions gallons of gasoline; plus

Coal: If placed in a coal train, the train would stretch 331 to 686 miles, or a maximum distance extending from Washington, D.C. to Chicago; plus

Air pollution: Equivalent to 1.2 to 2.4 years of emissions from 1,000 Mw coal-fired power plant; plus

Water pollution: Equivalent to 3.2 to 8.9 years of emissions from a 1,000 Mw coal-fired power plant; plus

Solid waste: Trash Can Volume: Equivalent to 30 to 87 fillings of the Orange Bowl in Miami, Florida; or Landfill Volume: Equivalent to 12 to 30 completely filled medium-sized city landfills; plus

Water consumption: Equivalent to 2.8 to 5.3 years of domestic water use in the City of Washington, D.C.; plus

Raw materials: Bauxite: Equivalent to 7 to 15 percent of bauxite imports in 1976; Iron Ore: Equivalent to 2 to 5 percent of iron ore imports in 1976; Glass Sand: Equivalent to the sand in a beach 100 feet wide and 2 feet deep stretching 6.1 to 12.5 miles long.

S. 598 AND SIMILAR LEGISLATION

We stated earlier our gratitude to the many members of the Senate who have co-sponsored S. 598. We are equally appreciative of the many members who have co-sponsored the identical bill in the House, H.R. 3567. We wish to call attention also to H.R. 3573, introduced by Rep. Luken and Rep. Mica, which has the same purpose as S. 598 and H.R. 3567—to overturn the FTC decision and permit the continued use of exclusive territories in the soft drink industry. Both versions of the legislation seek a common objective—the preservation of competition and the avoidance of concentration in the soft drink industry and the maintenance of a manufacturing and distribution system in the industry that permits a continued high level use of the returnable bottle. The Luken-Mica bill differs only to the extent that it emphasizes the need for the legislation to protect the environment, to avoid unnecessary energy consumption, and to make the product available in the lowest cost package form.

It also represents an unambiguous legislative declaration that nothing in the Federal Trade Commission Act or other antitrust laws shall render invalid exclusive territorial agreements in the soft drink industry, unless it is found that within a territory there is an absence of generally available competing products, and further found that the elimination of the territorial rights will not adversely affect the quality of the environment, increase energy consumption, inflate the cost of soft drink products, or lead to concentration of economic power in the industry.

Some opponents of the legislation have described it as an "antitrust exemption" for the soft drink industry. This is both untrue and unfair since all the bills do is permit the continued use of the present franchise contracts, which, in essentially the same form, have been in effect for more than 75 years. The legislation would not, for example, permit such pernicious forms of anti-competitive behavior as collusion among interbrand competitors to fix prices or to eliminate the returnable bottle.

CONCLUSION

We submit the evidence in this matter is overwhelming to the effect that vertical territorial restraints in soft drink franchise agreements are pro-competitive and in the public interest. In fact, there is not an iota of reliable and credible evidence that they operate to the detriment of consumers, or that their elimination would lower the price of the product a penny. All evidence is to

the contrary—that without these restraints the returnable bottle will disappear with resulting overall higher prices to the consumer and very serious adverse impacts on our environment and energy conservation goals.

We urge the Congress promptly to enact legislation that will avoid the many evils most certain to follow the implementation of the FTC decision in the soft drink cases.

(The exhibits referred to in the statement are not included in the RECORD.)

Mr. THURMOND. Mr. President, that completes the statement by J. F. Koons, Jr., president of Central Investment Corp., on S. 598, which was given before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, on September 26, 1979.

Mr. President, I now ask unanimous consent that I may yield to the able and distinguished Senator from Mississippi, with the understanding that upon my resuming at a later time, the Chair not consider this a second speech on this legislative day, and that I will not lose my right to the floor when I am ready to resume my address.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, before I continue my remarks on this subject which began earlier, I compliment the distinguished Senator from South Carolina on the contribution he is making to a full understanding of the issues presented to the Senate by this bill and these amendments.

Mr. President, this legislation will overturn an erroneous decision by the Federal Trade Commission. That decision, rendered on April 7, 1978, by a vote of 2 to 1, ignored the 195 detailed findings of fact made by the FTC's administrative law judge which served as a basis for upholding the legality of the territorial provisions governing the sale of trademarked soft drinks sold by local bottlers.

The administrative law judge ruled that the net effect of the soft drink territories was to promote competition among bottlers of different soft drink products.

The ALJ found that elimination of the territorial provisions "would adversely affect competition because it would lead to the business failure of many small and some large bottlers as well as to the accelerated growth of large bottlers."

The ALJ found "intense competition in the sale of flavored carbonated soft drinks which stems from the fact that there is a large number of brands available to the consumer in local markets." He found a large number of brands available "in large urban areas, small towns, and rural areas alike" and that private label soft drinks "since the early 1960's have become a substantial competitive force in the soft drink industry."

The ALJ also found "keen interbrand price competition" which compels Coca-Cola bottlers to price equal to or below their major competitors because even a few cents differential on a six-pack would adversely affect sales. In fact, the judge found that in July 1971, when the FTC cases were started, "the average re-

tail price of Coca-Cola in the United States in 16-ounce returnable bottles * * * was lower than the average price per ounce at which Coca-Cola in the 6½-ounce returnable bottle was sold at retail in 1900."

The ALJ found that elimination of the territorial provisions was likely to change the industry profoundly. "Without exclusive territories the use of the returnable bottle by bottlers * * * would be substantially reduced, if not eliminated."

He also found that those bottlers which, as a result of elimination of territories, lost chainstore customers "would be obliged to cut back service to small accounts or to raise prices, either of which would reduce volume." In addition, "a substantial number of soft drink brands and flavors would be eliminated in local markets" and "even better known brands such as Seven-Up and Dr Pepper might not survive in many local markets."

Finally, he determined that "hundreds of bottlers would go out of business if exclusive territories were determined to be unlawful. The number of bottlers would be reduced to a fraction of the number that would otherwise exist under the present system."

Mr. President, this legislation is also necessary because the Federal Trade Commission misapplied the "rule of reason" test which the Supreme Court said should apply to all non-price vertical restraints in the case of *Continental TV Inc. v. GTE Sylvania*, 433 U.S. 36 (1977). In that case, the Supreme Court overturned an earlier ruling in *United States v. Arnold Schwinn & Co.*, 388 U.S. 365 (1967) in part and said that all non-price vertical restraints would have to be judged on a rule of reason; they would not be per se illegal. The rule of reason analysis requires weighing the effects of vertical restrictions in reducing intrabrand competition against possible benefits these restrictions may have on promoting interbrand competition. (Interbrand competition would be promoted if there are efficiencies in distribution, assistance to entry by new manufacturers, and encouragement for promotion and/or service and repair of the product.)

I am convinced that the FTC misapplied the "rule of reason" test in the consideration of the soft drink bottlers case, in part, because of evidence which I discovered during the hearings on this legislation, S. 598.

This evidence came from what has to be an unusual source given their position on this legislation—the U.S. Department of Justice. The Justice Department witness at the hearing in the Antitrust Subcommittee on September 26, 1978 was Richard J. Favretto, deputy assistant attorney general of the antitrust division of the Department. For the record I should say that Mr. Favretto, testifying for the Department of Justice, opposed S. 598. However I suggest here that Mr. Favretto has previously made public statements about the application of the rule of reason test which, if used in connection with the soft drink case, would lead Mr. Favretto to support the legislation pending in this body, the Soft Drink Interbrand Competition Act.

Specifically, in preparing for that subcommittee hearing, we found a speech by Mr. Favretto before the Southwest Legal Foundation Symposium on Antitrust Law given at the Dallas Hilton Hotel on May 12, 1978. The speech was entitled "Vertical Restraints and Other Current Distribution Issues In the Wake of *Sylvania*."

The speech discusses the impact of the Supreme Court rulings, which I mentioned earlier, *United States versus Arnold Schwinn* and *Continental TV versus GTE Sylvania*. I quote from part of Mr. Favretto's speech:

Whether the Court's acceptance in *Sylvania* of the arguments in favor of vertical restraints is dispositive for future cases is questionable in light of its own express reservations. Stressing the limits of its decision, the Court deliberately left open the possibility that subsequent analysis might identify non-price vertical restrictions which would appropriately be governed by the per se rule. But such a "departure from the rule-of-reason standard must be based upon demonstrable economic effect rather than—as in *Schwinn*—upon formalistic line drawing." All that is apparent at this point is that the Court does not want antitrust liability to turn upon the form of the restraint but rather upon its substantive impact.

The true meaning of the *Sylvania* opinion is going to have to await further clarification by the lower courts and ultimately by the Supreme Court itself. But we cannot wait for such clarification in making our enforcement decisions, so I would like to briefly outline for you how I see the Antitrust Division proceeding under the *Sylvania* opinion, and what I think some of the relevant considerations will be. From your perspective, I think you can assume that we will continue to view vertical restraints with suspicion.

Sylvania's rule of reason analysis dictates that we weigh the effect of vertical restrictions in reducing intrabrand competition against possible benefits these restrictions may have on promoting interbrand competition. If the benefits outweigh the adverse effects, then the restraints are reasonable. In making this analysis, the Antitrust Division is likely to look primarily at three factors: (1) the market power of the company imposing the restraints; (2) the extent to which the restraints impede intrabrand competition; and (3) the justifications asserted for the restraints in terms of promoting interbrand competition.

Market power will be an important factor in our analysis because interbrand competition is the only remaining check on the price of a product subject to intrabrand restraints. If a manufacturer has substantial market power, the anti-competitive impact of the distribution restraints is aggravated. Factors we will consider in arriving at the state of competition in any industry—and the market power of the firm in question—will include the market share of the firm imposing the restraints, the degree of concentration in the industry, and the extent of product differentiation.

Market power primarily turns on the market share commanded by the product in the interbrand market. The larger the market share of the manufacturer, the more likely there will be anticompetitive effects in the overall market as a result of intrabrand restraints. If the overall market is imperfect, there is normally more reason to guard against intrabrand restraints. This is reflected in the Division's concern with the level of concentration in the market where vertical restraints are imposed. The danger of aggravating oligopoly pricing behavior by increased utilization of intrabrand restraints in a concentrated industry would be a criti-

cal factor in our assessment of the competitive effect of these restrictions. Conversely, we would have less concern for their impact in an overall market which was not concentrated.

Finally, the existence of significant product differentiation in a market would be relevant to the analysis. Where there is strong brand identification, the power of the manufacturer and its dealers to exact an unwarranted premium price may not be materially restrained by the competition of other products in the market.

After analyzing market power, the next step is to determine the extent to which the vertical restraints impede intrabrand competition. While the majority in *Sylvania* was unable to distinguish the defendant's location clause from the customer restrictions imposed upon retailers in *Schwinn*, there do appear to be important potential differences in market impact between the various possible vertical restraints. For example, the effect of a customer restriction on intrabrand competition is normally more threatening than a location clause restriction. Customer restrictions are frequently directed at keeping products out of the hands of discounters and may totally foreclose sales to that type of purchaser. Under a location clause, on the other hand, the dealer retains his right to sell to any customer, albeit only from its franchised location. Similarly, direct territorial restrictions tend to have a greater anticompetitive impact on intrabrand competition than, for example, areas of primary responsibility.

The Department has traditionally treated less restrictive vertical arrangements, such as areas of primary responsibility, profit pass-over payments, and location clauses, as being subject to the rule of reason. The effect of *Sylvania* is to equate these restrictions for purposes of analysis to the same standard that applies to direct vertical territorial and customer restrictions. This will lead to no significant change in how the Division has previously viewed these somewhat more ambiguous practices.

In the post-*Schwinn* era, the courts sought to ameliorate the harshness of the *per se* rule articulated there by distinguishing areas of primary responsibility, location clauses, and the like from direct customer and territorial restraints. Frequently, these hybrid restrictions were permitted where there did not appear to be any real competitive danger. Now that the *per se* rule has been eliminated, assessment of the validity of restraints in this entire area will not proceed on the basis of the form that the restriction takes. Thus, a direct territorial limitation or an indirect limitation achieved through use of a location clause will be assessed based on the effect of the limitation in the market involved.

Situations may also arise where a combination of restraints may render a vertical arrangement suspect where the imposition of only one or the other of those restraints would be legitimate. Thus, an exclusive dealing requirement coupled with an exclusive territorial restriction may have an impact in the overall market which may not be warranted to achieve the individual manufacturer's interest. The combination of these two types of restraints has been cited by some commentators as increasing the barriers to entry in an industry and therefore having an anticompetitive impact in the overall market.

After assessing market power and the restrictive impact of the restraints on intrabrand competition, we must proceed with an evaluation of the justifications proposed for the restraints in terms of promoting interbrand competition. One of the first steps in this analysis is a step familiar to rule-of-reason cases, i.e., we must look to the purpose of the restraint in question and whether it is ancillary to a legitimate busi-

ness objective or imposed for the purpose of restricting competition. As part of this evaluation, we will examine the dimensions of the restraint to determine whether its scope is reasonably necessary to achieve the legitimate business purpose asserted and whether it merely regulates and promotes competition or is excessive in its restrictive effect. A possible inquiry here would be whether or not there are not less restrictive alternatives to achieve the same objectives. For example, would a primary area of responsibility achieve the objective as well as the more restrictive territorial exclusivity provision?

The Supreme Court in *Sylvania* identified a number of possible justifications for intrabrand restrictions. The Court pointed out that vertical restrictions may promote interbrand competition by allowing the manufacturer to achieve certain efficiencies in the distribution of its product. As an example of how this could operate in practice, the Court commented that new manufacturers and manufacturers entering new markets can use vertical restrictions as a means of inducing competent and aggressive retailers to make the heavy investment that is often required in initiating distribution of new products. The Court also noted that vertical restrictions can be used by established manufacturers to induce retailers to engage in promotional activities or to provide services and repair facilities necessary to the efficient marketing of the product. The Court was concerned apparently with the fact that the availability of such services may affect the manufacturer's good will and the competitiveness of its product. The Court feared that the so-called "free rider" effect might cause retailers in a purely competitive situation to eliminate services.

Debate has already started regarding the correctness of the Court's assumptions on these points. For example, some commentators have questioned the scope of the theory that by preventing a free rider, vertical restraints encourage dealers to undertake intense sales efforts, thereby furthering interbrand competition. This reasoning may not have application in some industries and solutions to the "free rider" problem may be available without imposing vertical restrictions.

Mr. METZENBAUM. Mr. President, will the Senator from Mississippi be good enough to yield to the Senator from Ohio for about 3 minutes just to make a statement on this subject without interfering with his speech?

Mr. COCHRAN. I would be happy to yield to the Senator without losing my right to the floor nor should my resumption be considered a second speech.

Mr. METZENBAUM. No problem.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. The Senator from Ohio asked the Senator from Mississippi to yield only for one purpose. Inquiry has been made of me and suggested that if I wanted to clear the floor in order to call up the Illinois Brick amendment, I might move to table the Bayh amendment or the Cochran amendment or the Bayh and Cochran amendment.

I am not rising to offer any motion to table. In effect, I am rising for the purpose of saying that I do not intend to offer a motion to table, it being my view that the Bayh and Cochran amendments are good amendments. I do not think they ought to preclude my calling up the Illinois Brick amendment. I addressed myself to that subject previously, but I wanted to make it clear that that to me

would not serve any useful purpose to offer a motion to table amendments that have merit.

I think so well of them I wish they would be adopted immediately. But I also addressed myself to that subject previously, and I thank the Senator from Mississippi.

Mr. BAYH. Mr. President, if the Senator from Mississippi will yield to the Senator from Indiana on the same terms—

Mr. COCHRAN. I would be happy to yield to the Senator from Indiana on the same terms.

Mr. BAYH. I would just like to express my appreciation to the Senator from Ohio. As usual, he is extremely cooperative. Unfortunately, we cannot resolve this minor difference of how we can proceed here. Perhaps we will have a chance to discuss it further.

As I said earlier, the Senator from Indiana is in a very difficult position since he is a cosponsor of the very amendment the Senator from Ohio wants to bring up at this time. I hope after the Senator from Mississippi has concluded to, perhaps, put the reservation that the Senator from Indiana has to bring it up at this time in a little different perspective than that presented by his friend from Ohio earlier this morning in a very cogent argument presenting his side on this matter. But I want to thank him for helping us to proceed here.

I thank my friend from Mississippi.

Mr. COCHRAN. Mr. President, to continue:

Also, the dangers of disguising fundamentally horizontal restriction as vertical and potentially lawful restraints have been noted, as has the tendency of vertical restraints to permit retailers of highly differentiated products to capture a "retail monopoly profit." Only time will tell the extent to which the possible justifications discussed in broad-brush fashion by the *Sylvania* Court are truly accepted as defenses to vertical restraints.

In our future enforcement activity involving vertical restraints, I believe we will explore the appropriateness of seeking either *per se* treatment or the application of a rule of presumptive illegality in particular factual settings. Under a rule of presumptive illegality, once the Government proves certain facts—the existence of a vertical restraint plus something more about its competitive impact—then the burden of proof would shift to the defendant to justify the restraint on competitive grounds. For example, it has been suggested that a rule of presumptive illegality would be appropriate for vertical exclusive territorial arrangements where either the manufacturer or the dealer was shown to have market power or where the arrangement was shown to be directed against price cutting.

To summarize, I think the Division is not likely to challenge non-price vertical restraints being used by new entrants or by marginal competitors like *Sylvania* who may be akin to the failing company found in merger law. It seems to be generally accepted among economists and businessmen that vertical restraints can facilitate the entry and continued market presence of small manufacturers by permitting them to secure the services of capable dealers and to build a favorable image. This promotes interbrand competition while imposing limitations on intrabrand competition that are not particularly significant.

Mr. President, if we take the legal analysis which Mr. Favretto makes in

that speech and apply it to the specific facts found by the administrative law judge on those points. I believe we would inevitably come to the conclusion that the exclusive territories which are governed by contract in the soft drink bottling industry are procompetitive.

Let us take those three points in the speech in order. First, do the vertical restrictions promote interbrand competition by helping the manufacturer achieve certain efficiencies in the distribution of its product?

On October 3, 1975, the administrative law judge for the Federal Trade Commission found as follows:

Around the turn of the 20th century syrup companies were largely small operations typically owned by pharmacists or their families. In order to provide the necessary inducement for local entrepreneurs to supply the capital required and to make the necessary effort to promote consumer acceptance of a new bottled soft drink product, soft drink licensors included exclusive territorial provisions in trademark licenses.

Territorial restrictions encouraged greater development of marketing and distribution efforts since exclusive licensees knew that their licensors and other licensees could not obtain a "free ride" on their efforts; they made possible the licensor's maintenance of quality control, thereby insuring uniform application of his common law trademark; they facilitated the licensor's production planning by enabling greater accuracy in calculating the forthcoming demand for syrup in a territory; they reduced the selling cost of the product by avoiding duplication of sales effort in a territory; and they encouraged the bottler to develop the potential of his territory to the fullest, thereby maximizing sales of the trademarked product.

The system of exclusive territorial licenses consistently has been widely employed in the manufacture and distribution of bottled soft drinks. There are over 50 syrup companies who have licensed local bottlers, 36 of them nationwide. These companies market more than 150 different soft drink brands through 7,500 agreements with local bottlers. These agreements for the local production and sale of trademarked products are unique when compared with the traditional organizational structure of American manufacturing and marketing.

One unique feature of the soft drink trademark licensing system is that a nationally advertised product is manufactured locally by independent businessmen who are required to make substantial and continuing investments in plant, equipment, packaging and warehouse space. No other industry could be identified where a single national brand owner sells an ingredient to hundreds of independent licensees who manufacture a finished product from that ingredient and others under a trademark license.

The soft drink industry is also unique in that it sells a refreshment product which is an "impulse item," whose most important characteristic is a distinct taste. Constant sampling is necessary to maintain demand for a brand and total availability of a brand at a multiplicity of outlets is essential to provide constant sampling necessary to successful marketing of that brand. The soft drink industry is also different from other industries in the broad range of flavors and package sizes and types required to be made available to satisfy consumer demand, in the need for frequent local store-door service, the importance of in-store merchandising, and the requirement of a store-door delivery system to sustain the use of a returnable container. Soft drinks are the only major

product still available in food stores in returnable containers.

Those findings of fact show conclusively that the territorial restrictions encourage greater development of marketing and distribution, thereby achieving maximum market penetration—and, I might add, greater consumer choice.

Turning to the second point in Mr. Fauretto's speech: Do the vertical restrictions promote interbrand competition by inducing retailers (or distributors) to make new investment or new entry? The administrative law judge for the Federal Trade Commission made these findings:

Over the last two decades, there has been vigorous and increasing competition from the entry of new types and brands of soft drink products. After losing market position, the Coca-Cola Company was forced to abandon its single product philosophy around 1960 and to introduce a line of flavors and various allied products.

Entry of new firms and brands into the soft drink industry is easy. There are numerous flavor houses from which a company entering the soft drink business can purchase syrups or concentrates. There are also a large number of facilities available for the manufacture of soft drinks in bottles and cans which can be purchased, leased, or which will produce flavored carbonated soft drinks on a contract basis. Competition among contract bottlers or canners is very tough. There is no problem in obtaining an adequate supply of cans or bottles in which to package a new brand of soft drinks. Personnel with experience are available in the industry. Many new companies have entered the packaged soft drink business in the last 10 years, such as A&W Root Beer.

Many brands of soft drinks have been able to enter new markets and obtain immediate distribution in such markets at virtually no expense by entering into exclusive territorial license agreements with established bottlers already manufacturing and distributing other national brand soft drinks. By this "piggybacking" on the products of an established national brand bottler, a brand attempting to enter a market capitalizes on the bottler's existing production facilities, vehicles, vending machines, sales force, and good will in a market and can obtain substantial distribution in a market in a very short time.

By entering into exclusive territorial license agreements with established national brand bottlers and expanding the number of its bottlers from 395 in 1961 to 512 in 1971, Dr Pepper Co. has been able to enter a substantial number of new markets and expand the geographic areas in which Dr Pepper is available from those containing 114 million people to areas with 198 million people or almost 98 percent of the population. During this period, Dr Pepper's national share of the flavored carbonated soft drink market grew from 2 to 2½ percent to nearly 4 percent, and is about 5 percent today. In 1971, about 70 percent of the bottlers of Dr Pepper were licensed to sell other brands. During the 1961 to 1971 period, 70 percent of Dr Pepper's growth came from the multi-brand plants, and Dr Pepper grew at a rate 2 to 3 times the rate of the industry.

Thus, these findings of fact, supported by the evidence, show that entry into the market is easy and that territorial license agreements helped Dr. Pepper enter the market.

Turning to Mr. Fauretto's third point: Do the vertical restrictions promote interbrand competition by inducing retailers (or distributors) to engage in promotional activity?

The administrative law judge for the FTC made findings on that point as follows:

The evidence here shows that focusing the bottlers' attention on their own territorial markets stimulates their competitive effort.

There is keen interbrand pricing and also packaging competition (Findings 103-109, 149-153) and there are many brands of soft drinks available (Findings 92-102). In the last few years in particular, many new brands of soft drinks have successfully been introduced into the territorial markets of bottlers (Findings 154-162). The bottlers also compete intensely in having their brands available at a multitude of outlets and in obtaining both desirable shelf space and display locations in food stores (Findings 137-140, 141-144). And it is worth repeating that the prices of Coca Cola and allied products are determined by the bottlers individually and that those prices are sensitive to the prices of other brands and types of soft drinks (Findings 66, 103-109, 127-131).

Thus, under all three tests, the territorial provisions have been found procompetitive.

Mr. President, I think this analysis proves my point, that the FTC misapplied the rule of reason and that S. 598 is needed to correct that error so that the soft drink industry can continue to serve its customers and do business in an atmosphere of stability and certainty.

Mr. President, I ask unanimous consent that the remarks I have just made not be considered as a second speech on the same legislative day on this issue under the rule.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

● Mr. SIMPSON. Mr. President, I am pleased to be one of the principal cosponsors of the Soft Drink Interbrand Competition Act. I firmly believe that this legislation will reintroduce some degree of realism into the Federal Trade Commission's interpretation of the antitrust laws.

Far from being an anticonsumer bill—as is depicted by its opponents—this legislation is clearly procompetitive. It allows for the existence of franchise operations in the soft drink industry. Without this legislation, and in light of the FTC's recent misguided efforts to eliminate competition in this industry by its hasty and ill conceived attacks on franchise arrangements, it becomes obvious that there would, if the FTC were successful, actually be a reduction in competition, and a concurrent increase in the prices charged for soft drinks throughout the United States.

There is nothing in this legislation that runs contrary to the letter, or the spirit, of the antitrust laws. In 1967 the Supreme Court handed down one of its most ill-conceived and construed decisions rendered in the complex field of antitrust law. The net result of the *Schwinn* decision was to throw into doubt the legality of all territorial franchise contracts, on the assumption that they constituted an impermissible vertical restraint of trade.

With that one decision, the legality of some of the most successful, procompetitive, and pro-consumer business operations, including MacDonald's, Carvels, Pizza Hut, and Dunkin Donuts

were placed in doubt. And for what reason? Merely, in my judgment, as an academic exercise of placing form over fact. It would no longer matter that by guaranteeing to a franchisee a protected territory, the franchisor would be bringing to consumers a host of new products and services at lower cost. It would no longer matter that franchise arrangements were providing perhaps the most readily available means for Americans with limited capital resources to become their "own bosses," and own their own business, thereby increasing overall competition in the marketplace. All of these pro-competitive advantages would disappear from the marketplace, because of an arcane attempt by the FTC to engraft this vague view of antitrust analysis to these types of contracts.

Eventually the Supreme Court recognized the inherently anticompetitive nature of the Schwinn decision. In 1977, it, in effect, reversed Schwinn. In *GTE-Sylvania, Inc. against Continental Television, Inc.*, the Supreme Court held that, in a wide variety of circumstances, the allocation of protected territories among competing retailers—for distributors—by a manufacturer might well be a pro-competitive, pro-consumer policy, that would be sanctioned by the antitrust laws.

This proposed legislation is within the confines of the Court's decision in the *GTE Sylvania* case. The record before the Federal Trade Commission failed to disclose any injury to competition by this practice. In fact, expert testimony, before congressional committees, from reputable industrial organization economists disclosed that there was little likelihood that this territorial allocation system within the soft drink bottling industry was causing any increase in the retail cost of soft drinks. These same witnesses also testified that in any event, it would be virtually impossible to calculate such costs, even if they did exist; and the accusation that this system was raising the price of soft drinks by 5 cents a bottle was without foundation.

Finally, I would remind this committee that the history of this matter before the FTC was, to say the least, a checkered one. At no time did an absolute majority of the FTC ever rule that territorial franchises were anticompetitive. Only three members of the Commission even heard the case. Moreover, only two of them thought that the administrative law judge's decision, which favored the bottlers, ought to be overturned. The third Commissioner ruled in favor of the bottlers. The U.S. Court of Appeals has yet to rule on the matter.

In short, S. 598 is, in fact, as well as in theory, a pro-competition, pro-consumer bill, and it should be approved. ●

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT MODIFICATION—S. 1309

Mr. ROBERT C. BYRD. Mr. President, referring to the agreement that has previously been entered on the food stamp conference report, S. 1309, I ask unanimous consent to amend that agreement by adding thereto as follows: That there be 30 minutes on any amendment in the first degree to a motion, equally divided, and that there be 20 minutes on any amendment in the second degree to a motion, equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONVENE THE SENATE AT 11:30 A.M. ON MONDAY, MAY 19, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes on Monday next, it convene at the hour of 11:30 a.m.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

FOOD STAMP ACT AMENDMENTS OF 1980—CONFERENCE REPORT

Mr. TALMADGE. Mr. President, I ask unanimous consent that the following staff members of the Committee on Agriculture, Nutrition, and Forestry be granted the privilege of the floor during consideration of the conference report on S. 1309, including all votes:

Henry Casso, Carl Rose, Barbara Washburn, Steve Storch, and Nabers Cabaniss.

Also, Mr. President, I ask unanimous consent that Joe Richardson of the Congressional Research Service be granted the privilege of the floor during consideration of the conference report on S. 1309, including all votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I submit a report of the committee on conference on S. 1309 and ask for its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, before the Chair responds, may I say, in accordance with the promise made to Mr. METZENBAUM this morning that action on the conference report would not begin before 4 p.m. today without his approval, that approval has been given and there is no objection at this time.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1309) to increase the fiscal year 1979 authorization for appropriations for the food stamp program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. TALMADGE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TALMADGE. Am I correct that the time on the conference report and consideration thereof will be limited to 90 minutes, to be equally divided between the ranking member on the committee, the Senator from North Carolina (Mr. HELMS) and myself?

The PRESIDING OFFICER. The Senator is correct.

Mr. TALMADGE. I yield myself such time as I may take, Mr. President.

Mr. President, the food stamp program is in a crisis. If this conference report, which increases the authorization for appropriations for this year's food stamp program, and the necessary supplemental appropriations are not quickly forthcoming, over 20 million needy Americans will be forced to go without food stamp benefits for at least a portion of the month of June. As my colleagues know, I am not one to close my eyes to fraud and abuse in the food stamp program. It has been my stated desire, over the year, to rid the program of fraud and abuse. We have been successful, but not successful enough. Even with this in mind, it would be poor public policy to hold the benefits of the truly needy elderly, infirm, and disabled hostage for the actions of those who are abusing the program or fraudulently receiving stamps. S. 1309, as reported by the committee of conference, contains a number of significant tightening provisions in the program that I will describe in a few minutes. We must insure that the truly needy are not jeopardized. It is the belief of the conferees that the new cap for fiscal year 1980 contained in S. 1309 will be sufficient to provide full funding for the program for the remainder of this fiscal year.

The Senate voted last year to remove the cap on the authorization for appropriations for the 1980 and 1981 programs. However, the House conferees did not see fit to remove the cap for 1981. The conferees recognize that the new cap of \$9.7 billion for 1981 will likely be insufficient. However, because of the uncertainty of the estimating process, the conferees chose to put off until a later date, when more accurate data is available, its decision on what the proper cap for 1981 should be. I remain convinced that Congress, in recognition of the plight of needy Americans, will continue to provide full program funding.

The food stamp program is the most visible Federal aid program. Every American has been exposed to the program in the supermarket and has an opinion of the program. No program has occupied more of Congress time. We have studied, amended, restudied, and reamended the food stamp program. This laborious process will continue because it is a necessary process. There are problems in the food stamp program that must be addressed, and S. 1309 addresses many of these issues.

S. 1309 would—

First, permit States the option to determine program eligibility and benefits by using income received in a previous

month, following standards prescribed by the Secretary of Agriculture;

Second, if a State elects to use a retrospective accounting system, require that certain categories of households file periodic reports of household circumstances following standards prescribed by the Secretary;

Third, attribute the income (less a pro rata share) and the resources of an ineligible alien to the remaining household members in determining that household's eligibility and benefits;

Fourth, expand the State agencies' authority for verification;

Fifth, require photo identification cards to be presented with authorization cards as a condition of receiving food stamps in certain areas where the Secretary finds that it would be useful to protect the program's integrity;

Sixth, require food stamp certification personnel to report illegal aliens to the Immigration and Naturalization Service;

Seventh, permit the Secretary to require forfeiture of and dispose of any form of valuable property illegally furnished or attempted to be furnished in exchange for food stamps or authorization cards;

Eighth, establish an error rate sanction system under which a State that fails to meet established error rate standards would have its Federal share of State administrative costs reduced or, if no matching funds were due the State, be subject to a Federal claim for recovery;

Ninth, require the disclosure of certain income tax information in the files of the Social Security Administration and certain wage and unemployment insurance information in the records of State unemployment insurance agencies to the Department of Agriculture and State food stamp agencies only for the purpose of, and to the extent necessary for, determining a person's eligibility for food stamps;

Tenth, extend workfare pilot projects for a full year to September 30, 1981;

Eleventh, make the adjustments in the thrifty food plan, the standard deduction, and excess shelter expense deductions on an annual, instead of semiannual, basis;

Twelfth, change the manner in which the income poverty guidelines for the program are adjusted, thereby lowering those guidelines;

Thirteenth, reduce the ceiling on assets for an eligible household other than a household consisting of two or more persons, one of whom is age 60 or over, from \$1,750 to \$1,500; and

Fourteenth, substantially restrict the eligibility of students for participation in the program.

These provisions will tighten the administration of the food stamp program and will result in savings of considerably more than one-half billion dollars.

I share the concerns of some of my colleagues over the provisions in S. 1309 that would increase the dependent care deduction and the excess medical expense deduction. These provisions will not become effective until fiscal year 1982. The Committee on Agriculture, Nutrition, and Forestry will have to reauthorize the food stamp program next

year. It is my desire that at that time we fully reconsider and evaluate these provisions. If we conclude that they are unnecessary or unwise we can preclude their implementation.

The committee of conference rejected a recoupment proposal that was offered on the House floor, but requested the Finance Committee and the Ways and Means Committee to hold hearings on this proposal. Recoupment is an interesting proposal, and after those committees conclude their hearings it may be possible to formulate a recoupment proposal for the food stamp program, and other social programs, that will be equitable and workable.

S. 1309 is a bill that addresses major issues in the food stamp program and provides the necessary authorization for additional funding to insure that a cut-off in the program will not be necessary. It accomplishes that purpose while saving more than one-half billion dollars. That is quite an accomplishment, an accomplishment that could not have been achieved without the leadership of Chairman FOLEY of the House Committee on Agriculture and the cooperation of the House and Senate conferees. Senators MCGOVERN, HUDDLESTON, LEAHY, MELCHER, HELMS, DOLE, and HAYAKAWA are to be commended for their fine efforts.

I urge my colleagues to join me in supporting the conference report on S. 1309.

Mr. President, I yield the floor and reserve the remainder of my time.

Mr. HELMS. Mr. President, in order that we may facilitate this a little bit and not consume too much of the Senate's time, I ask unanimous consent, not withstanding the rule of the Senate that all time must be yielded back before a motion to recommit can be made, that we just consolidate this time with the understanding that both Senator TALMADGE and I want to expedite the proceedings as much as possible.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Now, Mr. President, I move that S. 1309 be recommitted to the committee on conference with instructions that the Senate conferees insist on the Senate position, that any amendment which is to become effective on October 1, 1981, or later, with the exception of section 127, the disclosure of information, be stricken from the bill.

The PRESIDING OFFICER. Will the Senator send his motion to the desk?

Mr. HELMS. Yes.

Mr. President, there is no one in the Senate for whom I have greater respect than the distinguished chairman of the committee, and it is very seldom we have even the slightest difference of opinion. But in this matter, perhaps there is one.

But I certainly will testify as to the accuracy of his earlier statement that he is concerned about the expansion of the food stamp program, and he has done a workmanlike job in trying to correct some of the abuses. I pay tribute to him in that respect.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. TALMADGE. I am grateful for the generosity of my distinguished colleague, and I commend him for his efforts in that regard.

Mr. HELMS. I thank the Senator.

Mr. President, at issue in the conference on S. 1309 were a number of House provisions that would expand—I emphasize that word—expand the food stamp program. The conferees accepted that modification of these provisions despite the fact that the food stamp program is already spiraling out of control.

Specifically, these provisions establish a special dependent care deduction and expand the medical expense deduction, at a cost of at least \$68 million.

Also at issue in the conference on S. 1309 were proposals insisted on by the House Budget Committee. The conferees changed these provisions so that their positive budgetary effect of \$290 million will be neutralized beginning in fiscal year 1982. In fact, in fiscal year 1982, these provisions will cost the American taxpayers \$64 million more than the current law.

These two provisions address the way in which the annual adjustment of the so-called thrifty food plan and the annual adjustment of deductions are tied to the Consumer Price Index.

Mr. President, the point is this—and I hope all Senators will understand it, including those who are not present on the floor of the Senate but who may be listening in their offices on the public address system: In all, these changes will cost the taxpayers more than \$420 million in fiscal year 1982 and will push the cost of the food stamp program to \$11.6 billion in that year.

Even though one out of every seven Americans already, today, is eligible for food stamps, this bill will go further. It will loosen eligibility criteria, and this Senator submits that that is a mistake.

For example, the Congressional Budget Office reports that after these liberalizing changes are implemented, a family of four with an income of \$14,878, nonetheless, can receive food stamps.

I do not know what the constituents of the Presiding Officer would say about this, but it staggers the imagination of the people of North Carolina that a family of four with an income of nearly \$15,000 will receive food stamps.

Indeed, Congress has become so bound up in creating special interest deductions to be used in computing income to determine food stamp allotments that Congress has begun to duplicate deductions, all at the expense of the American taxpayer.

For example, the food stamp program's standard deduction was developed to allow for medical expenses of \$35. Last year, Congress wisely acted to allow elderly citizens to deduct their medical expenses exceeding a \$35-a-month assumption. In this bill, Congress would permit all medical expenses above \$25 to be deducted.

Mr. President, I hope the Senator from North Carolina does not have to emphasize that he is a strong supporter of care for the elderly. Nevertheless, this Senator, in good faith, cannot endorse a proposal that would compensate food stamp

recipients twice for the same expense. That is what this does.

Last week, the House Rules Committee granted a rule that paved the way for immediate passage of a supplemental appropriation for the food stamp program. That rule could have been granted months ago, when it became obvious that the runaway food stamp program would exhaust its appropriated funds this June. However, the leadership of the House chose to forestall any such action.

Instead, they opted to allow the development of a food stamp crisis.

In that connection, you had better believe that the bureaucrats administering this program have been on their Government telephones, whipping up all sorts of support for a ballooning, expanding food stamps program. They have sent out material to friendly newspapers which resulted in editorials which, in many instances, completely misrepresented the fiscal circumstances that prevailed.

So I submit, Mr. President, that most Americans do not even understand the consequences of this legislation, let alone how much it is going to cost them.

Obviously, this is a contrived crisis which need not have occurred. It is a crisis in the food stamps program that has unnecessarily caused the elderly and the truly needy untold worry and distress.

Another result—and this is not inconsiderable—is the unnecessary turmoil among the State and local officials who work hard to try to help the truly needy.

Obviously, Mr. President, this strategy was adopted as a means of sidetracking badly needed food stamp reform, and it was accomplished by creating a crisis situation so that the irresponsible expansions of the program would be swept under the rug, so that they would not receive proper legislative scrutiny.

In the conference committee, it was repeatedly said, "Oh, well, we can come back and look at this in legislation next year." But the fact remains that the built-in excesses of this program now carry the imprimatur of the Congress of the United States. To my knowledge, there has not been 1 minute of hearings or debate in the Senate dedicated to the proposals which have been incorporated into this legislation. That is not the way to operate.

I know that the distinguished Senator from Georgia shares my feeling that we hope we can move ahead and get all these things under control, so that we can go back home and honestly assure the people that we are working on the abuses of the food stamp program.

The food stamp program will have to be reauthorized next year; and there is absolutely no reason why these inordinately expensive program changes cannot be added at that time, if it can be demonstrated that they are desirable, not slip them in, in this crisis legislation.

Enacting these changes now, even with the assurances of thorough review next year, will needlessly build them into the Presidential budget for fiscal year 1982.

Also the burden will be placed upon those Members of Congress who argue for caution in expanding this program rather than upon those who supposedly

have a proposal for which there is a legitimate need.

Mr. President, the Senate should not accept a conference report that expands the already bloated food stamp program rolls and the budget to pay for it.

I say again that the Senate had no opportunity to consider these changes and there is no good reason to annex them to this so-called emergency legislation, and that is why I have made the motion to recommit this conference report.

I insist to Senators that recommitting this report will in no way jeopardize the continued delivery of food stamp benefits this year because there is ample time for the conferees to meet again and consider the true will of the Senate. It may inconvenience one or more members of the committee, but when in terms of millions upon millions of dollars in savings to the taxpayer I see no other alternative.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. TALMADGE. Mr. President, I yield 10 minutes to the distinguished chairman of the Subcommittee on Nutrition of the Committee on Agriculture and Forestry, the Senator from South Dakota (Mr. McGOVERN).

Mr. McGOVERN. Mr. President, I first of all commend the distinguished chairman of our committee, Senator TALMADGE, for the way in which he handled the conference on this food stamp matter. We could have been faced with a very serious crisis in the funding of the food stamp program affecting millions of Americans if Congress had not moved expeditiously, and particularly in the conference yesterday, to work out the differences between the House of Representatives and the Senate on the food stamp authorization. I think that conference moved as well as it did because the chairman of our committee, Senator TALMADGE, was as experienced and skillful as he was in bringing together the two bodies for what I think is a workable and practical solution of this question.

Mr. President, I rise in support of the conference substitute on S. 1309.

Action on this conference will help to bring to an end the impending crisis for a good many Americans who would otherwise be faced with a cutoff of their food stamp benefits, their very bread and butter, on June 1.

The conference substitute also contains significant budget savings over what otherwise would have been the funding level in the food stamp programs both for the fiscal years 1980 and for 1981.

This measure as worked out by the House of Representatives and Senate also contains administrative improvements to reduce fraud, error, and abuse in the administration of the program. It includes program changes to aid the elderly, battered women, and families with dependent care costs.

Mr. President, let us look first to our most immediate concern, sufficient funding to avoid what otherwise would be a June 1 benefit cutoff.

The conference substitute contains a spending ceiling of \$9.4 billion for fiscal year 1980, which by all estimates should be adequate to insure full benefits for all

recipients through the end of the fiscal year.

Mr. President, I realize that a \$9 billion program represents a lot of money. But let us keep in mind that this is money being spent for American food to feed American citizens. This is the produce of our farms and ranches across this country at a time when it is of special benefit to every food producer in the United States. With the impact of the Soviet embargo closing off outlets that had been available to American agriculture, it is especially important this year that we miss no reasonable, constructive opportunity to provide outlets for the produce of our farms. There is no question at all that putting several billions of dollars of additional purchases into the hands of American farmers and food producers is of great benefit to the economy of this country, the farmers, the food processors, food manufacturers, the grocers, and the entire food chain across the country. And beyond that is the even more fundamental objective of reducing hunger and malnutrition in this country.

I think the greatest single success story in Government in recent years is the success in the war against hunger here in the United States. What a tragedy it would be if this country with its great capacity to produce food were presenting the spectacle to the world that millions of its citizens are going hungry. We avoid that spectacle through the food stamp program, the child nutrition programs, and the WIC programs. At a time when there are very few success stories that we can point to in which the Federal and State governments are involved, the battle against hunger is one of those success stories, and it should be a matter of pride and satisfaction for every Member of Congress who has participated in the shaping of this program.

So I am glad that this conference report, however late in the day, does provide adequate funding to prevent a disruption of this essential food program that sustains nutrition and health for so many millions of our citizens.

I have never had any doubt in watching this program for many years that in the absence of such a program we would not only have serious hunger and malnutrition in the United States, but our entire country would be paying unnecessary medical bills for decades to come. One of the reasons the American people enjoy the health that they do today in comparison to other countries is that we do a pretty good job of providing food for our people. We do not have the diseases associated with chronic hunger and malnutrition, or at least those diseases are on the decrease as we strengthen this program.

The funding limit set for fiscal year 1981 of \$9.7 billion is probably not going to be sufficient in view of what we see ahead in the way of rising unemployment and perhaps even more seriously the increased cost of food which means for the same amount of money you can feed fewer people and supply fewer beneficiaries.

But the conferees, recognizing the uncertainty of that ceiling for fiscal year 1981, directed the Department of Agriculture that they under no conditions

were to reduce benefits until after Congress has acted on the fiscal year 1982 authorization.

That will at least prevent recipients from having their already limited food stamp allotments reduced even further.

I might just say in passing, Mr. President, that the difficulties that the conference committee faced in arriving at an acceptable ceiling for 1981 simply attest to the common sense of the Senate position last year in removing this ceiling and simply saying that Congress wants to go on record to make sure that we do not have hungry people in the United States because they do not have the income to buy even a minimal diet.

Removal of this ceiling certainly would not mean that costs would rage out of control. The kind of substantive amendments, the reform amendments that are in this legislation now before us, provide programmatic changes to achieve savings. It is simply not true that the food stamp program is raging out of control. It is a very carefully disciplined and administered program in which extensive hearings have been held by Congress, with very careful oversight, and I think we have made a number of changes in recent years that have provided for better administration of a program. Obviously in a program this size, involving some 22 million Americans, there is going to be some error, there is going to be some abuse and some fraud, but I have no doubt that those instances are a very small percentage of the overall impact of this program.

The program changes made by the conference substitute will bring savings to the taxpayers in both fiscal years 1980 and 1981.

The Congressional Budget Office estimates, for example, that the savings in the fiscal year 1980 will be approximately \$150 million. CBO estimates that savings in fiscal year 1981 will be in the range of \$550 million. These are substantial savings.

A portion of those savings will come in replacing the twice-a-year update for inflation with a once-a-year update in computing eligibility and benefits. The once-a-year update will simplify administration, which I support, but I was troubled by the fact that benefits could be as much as 15 months out of date from the cost of living, whereas under present law the maximum lag is 9 months.

The conferees saw fit to adopt my proposal to make the update only 3 months less timely than present law, beginning in fiscal year 1982, by adopting a method to make the maximum lag 12 months.

I believe this is an important protection for recipients who are among the Americans most ravaged by inflation.

Two statistics highlight the need for such protection. During the period between September 1975 and April 1979, income of food stamp households rose by only 7 percent, while that of the population generally rose by 40 percent. While food stamp households had only a 7-percent increase in income, the cost of necessities rose by 34 percent.

That is an enormous gap for families who do not have any "fat" in their budgets to begin with.

My concern for the plight of the work-

ing poor remains. It is for this reason that I am pleased that S. 1309 will provide a separate deduction for dependent care, beginning in 1982, severing dependent care from the combined excess shelter and dependent care deduction of present law.

This separate deduction is not indexed for inflation, as was the combined deduction.

I am committed to remedying this problem when we reauthorize food stamps next year.

In providing a separate dependent care deduction, we are removing a disincentive to keep ailing family members in the home. The dependent care deduction covers not only young children, but cost of caring for the elderly. This will mean that families will be able to choose to have the grandparents live with them, even though they are ailing, rather than putting them in nursing homes simply because it was a choice of that or sufficient food for the family. I am pleased that we are removing this obstacle to uniting families.

The conference substitute incorporates a number of measures to add to the steps taken by the Congress in the last few years to reduce error, fraud, and abuse. I believe most of the new provisions, such as those for matching of income information and for photo identification, strike an appropriate balance between the need for improved verification and the rights of the recipients. The House report spells out in more detail the protections afforded to recipients, and I was pleased to see the sensitivity of the House Agriculture Committee members to this issue.

Before I close, I would like to comment briefly on one House provision that is not included in the final bill—recoupment of benefits from individuals who earn more than 175 percent of the poverty level. Inclusion of such a provision would undermine the basic principle of the food stamp program that needy individuals, even though their need is only temporary, would be eligible for food stamps so that they and their children would not have to go hungry. The proposal before the conference was administratively complex and prone to error. But even if we were to develop a proposal that was administratively workable, we would be undermining one of the most important precepts making up the foundation of the food stamp program. I am pleased that the House receded on this issue.

The conference substitute is a balanced bill with adequate funding for fiscal year 1980; over one-half billion dollars of savings for fiscal year 1981, and additional measures for reducing error, fraud, and abuse. I urge my colleagues to support the measure.

THE PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. McGOVERN. Mr. President, I again thank the Senator from Georgia for his leadership and his time.

Mr. TALMADGE. I thank my colleague for his contribution and his comments.

THE PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, with respect to the distinguished Senator from South Dakota he says the error is very

small. It is acknowledged that it is almost 15 percent. On a \$10 billion program that amounts to \$1.5 billion a year, and I submit that is not a very small error.

Mr. President, I yield to the distinguished Senator from Oklahoma such time as he may require.

Mr. BELLMON. Five minutes.

Mr. HELMS. Yes.

Mr. BELLMON. Mr. President, I thank my friend from North Carolina for yielding. I will try to be very brief.

I have come to the floor to support the Helms motion to recommit the conference report. I want to begin by commending the committee for the savings they have accomplished in this conference report, and I wish they had made the savings and stopped. But the problem is, as I understand what has happened here, there are liberalizations which will likely more than overcome the savings that were made, so we wind up with a more expensive bill and one which will be extremely difficult to fund in light of the fact that inflation is now running at a rate somewhere between 15 and 20 percent, and whether we like to think about it or not, we are probably facing another deficit for fiscal year 1981. I wish it were not true, but when we see what is happening to the economy, it is very likely the case.

It is my understanding that this bill significantly liberalizes and expands the food stamp program beginning in fiscal year 1982. This program is growing at unprecedented rates as it is, and this bill would further magnify these increases.

The growth in the food stamp program has been dramatic in the last several years, especially since 1977 with the elimination of the purchase requirement. This change has caused substantial program growth, contrary to projections made at that time that the effects on program participation rates and program costs from elimination of the purchase requirement would be largely offset by savings from eligibility tightening and other changes included in the 1977 legislation.

I have a table which shows what happens, which I will get into in just a moment.

CBO now indicates that almost all of the recent growth in the food stamp program, precipitating the funding situation we are now in, has been due to the elimination of the purchase requirement. The program's costs, Mr. President, have skyrocketed from \$5.4 billion in fiscal year 1977 to an estimated \$9.2 billion in fiscal year 1980, a growth of 70 percent in 3 years.

An even more striking indication of this growth is the fact that the level of funding for fiscal year 1980 contained in this bill is 51.6 percent higher than current law—the ceiling on costs that is in the law now. This is a tremendous increase which should make us look very hard at any proposals which will liberalize the program and increase future costs.

In addition to escalating costs, Mr. President, the number of people participating in the food stamp program has increased dramatically. In early fiscal year 1979, before implementation of the fiscal year 1977 amendments began, less

than 16 million people received food stamps.

Mr. President, we were not having starvation in this country at that time. People were getting along. With the elimination of the purchase requirement program rolls are expected to swell to 21.2 million in fiscal year 1980 and 23 million by fiscal year 1981 unless the program is tightened. I understand that there is very little tightening on this bill, but considerable loosening starting in

fiscal year 1982 that goes in the wrong direction.

Mr. President, I have a table which shows what has happened to food stamp costs and participation since 1965. It shows that in 1965 there was a very low number, so we can more or less disregard that. But in 1970 the number of recipients was 4,300,000. In 1975 it had grown to 17,100,000, a growth of about 32 percent over the prior year. It has gone on up now, and in fiscal year 1979 the num-

ber of participants was 20,200,000, and the fiscal year 1981 estimate is 23 million participants. This shows a program which started off growing at the rate of some 20 to 30 percent per year is still growing at the rate of 7 or 8 percent per year in the number of participants.

I ask unanimous consent that this table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FOOD STAMPS—GROWTH OF EXPENDITURES AND COSTS

Fiscal year	Total expenditures (billions)	Percent growth over prior year	Recipients	Percent growth over prior year	Fiscal year	Total expenditures (billions)	Percent growth over prior year	Recipients	Percent growth over prior year
1965	\$0.035	15.2	442,000	14.5	1980 (ceiling)	6.2			
1970	.58	130.8	4,300,000	33.3	Supplemental	+2.5			
1975	4.7	63.3	17,100,000	32.5	Amount in Second Con. Res.				
1976	5.7	22.0	18,600,000	8.7	86	8.6			
1977	5.4	-5.2	17,100,000	-8.0	CBO revised estimate for 1980	9.2	33.3	21,200,000	4.9
1978	5.6	3.7	15,800,000	-7.6	1981 estimate	10.8	17.3	23,000,000	8.4
1979	6.9	23.2	20,200,000	+27.8					

Current dollars				Constant dollars			
Average outlays growth per year (percent):							
1965-70				1975-79			
1970-75				1979-81			

I was told earlier this year that the Senate Agriculture Committee would not have time to consider changes to the food stamp program. We were then forced to go to conference with the House on a bill that the Senate passed on July 23, 1979, almost a full year ago. This measure did nothing to substantively cut back the food stamp program.

During the conference the Senate accepted most of the House provisions that tightened up the program here and there. Most of those changes were relatively minor, but in principle we did take some action to tighten up the food stamp program. We also, however, added some costs to the program, which is unbelievable. And in the same conference meeting we increased the authorization level for food stamps to over \$6 billion total for fiscal year 1980, and then to a level of \$9.49 billion for fiscal year 1981. Let me repeat, \$9.49 billion for food stamps in 1981.

Mr. President, the Senate just passed the budget resolution on Monday, May 12, and here we are 2 days later authorizing funding levels that reflect a runaway food stamp program. We in Congress are simply not doing an adequate job of keeping this program within reasonable boundaries.

Although this program was originally intended only for the very poor—and, along with the Senator from South Dakota, Senator McGovern, I do not want to see people starve; I do not want to see people undernourished. Although this program was originally intended only for the very poor, we now have, as I say, 10 percent of Americans eligible for food stamps. This should tell us something. Our costs for the program are almost up to \$10 billion for a single year. Every year some of us get up and protest the injustices of this program, and every year others in this body protect the program and make long speeches about the poor people of the country and their lack of nutrition.

According to the Congressional Budget Office's estimate, costs will have increased 58 percent next year over those of last year. And the CBO's estimate for next year is 73 percent above the amount currently authorized for fiscal year 1981.

Therefore, the \$9.5 billion budget proposal made by USDA for the program next year represents a full 40 percent of the whole Department of Agriculture budget proposal.

Let us talk about lack of nutrition. At the danger of shocking some people or offending some people, let me point out that witnesses from Johns Hopkins University, who were recently testifying before the Senate Agriculture Subcommittee on Nutrition, said that many so-called poor and rural Americans are overweight. Overweight from malnutrition? I do not know what they mean. Are they overweight from not having enough to eat?

These medical doctors, who are nutrition experts, said that the worst problem in American among the rural poor is dealing with this problem of obesity and not undernourishment.

I am not quoting random people. These are medical doctors from Johns Hopkins University who, presumably, know an

awful lot about what they are talking about.

I make this point because I am sick and tired about hearing why we need more and more food stamp benefits. Those who advocate liberalizing the availability of food stamps are never willing to make appropriate cuts—and cuts are necessary.

Some will recall my speaking on this floor about the counterculture people in Sebastopol, Calif. They have a considerable amount of cash income which they spend on pot and on other luxuries. But they used their food stamps to buy Perrier water. And the food stamps are being used by I do not know how many of the affluent young to supplement their luxurious lives.

For the past several months we have been working hard in the Senate to get a balanced budget approved. What a shame it is that only 2 days after the budget passed the Senate, with the budget conferees meeting right this minute to get a final agreement, we pass a food stamp bill that totally ignores those budget limits. This is an abuse, and I will not be a part of it.

Your entitlement to food stamps depends upon the level of your income. The level of your income is calculated with certain deductions that you are entitled to make. Dependent care deductions, \$38 million; medical care deductions, \$30 million; annualization of thrifty—these are increases in the conference report over last year's deductions for these purposes. This means that, along with the annualization of the thrifty food plan and the annualization of deductions, that savings that will not be realized. The total fiscal year 1982 impact will be another \$422 million.

The food stamp program, Mr. President, is widely recognized by the voters as being a runaway inflationary program. Not one of them, not one of those who object to the food stamp program, object because of any lack of sympathy for those who are really undernourished, for those who are really hungry.

We are no longer dealing with the really hungry and the really undernourished. We are dealing with a level of population that has gotten itself accustomed to a form of parasitism which we have officially encouraged through not being critical enough in our allocations.

It is our most costly welfare program of all the costly welfare programs we have. I urge my colleagues earnestly to join me in referring this entire program back to conference. I thank the Chair.

Mr. DOLE. Will the Senator yield?

Mr. HELMS. I will be delighted to yield.

Mr. DOLE. I would first like to address a couple of questions to the distinguished chairman of our committee, the Senator from Georgia.

As I understand it, and I do not quarrel with the statements made by my colleague from North Carolina (Mr. HELMS), when this measure as reported by the House Committee on Agriculture the dependent care deduction and other deductions would have been effective in fiscal 1981. But when the bill passed the House and when we finished the conference, through the efforts of the conferees, all of us, the chairman, Chairman

FOLEY, and others, they would have no fiscal impact in 1981 and, in fact, it would be 1982. Is that correct?

Mr. TALMADGE. That is correct. The whole thing is a phantom issue. The bill expires next year. Unless the Congress reauthorizes the bill, it would be dead. It would be a nullity. None of these liberalizing provisions take effect until fiscal year 1982. So we are talking about something at the end of a rainbow that does not exist.

Mr. DOLE. That is the point I want to make. I certainly support the objective of the Senator from North Carolina. It is my understanding that we have to do something next year or it is not going to be effective; is that correct?

Mr. TALMADGE. The Senator is entirely correct. Let me make this statement also: The conference report will save, according to the Congressional Budget Office, for fiscal year 1980, \$146 million. For the fiscal year 1981, it will save \$560 million. And even if the liberalizing provisions go into effect in fiscal year 1982, and they will not go into effect at all unless the Committees on Agriculture of both the House and Senate act affirmatively, and the House acts affirmatively and the Senate acts affirmatively and include these liberalizing provisions, even under those conditions in fiscal year 1982, the conference report will save \$326 million.

So what the conferees have brought to the Senate and are asking them to approve saves money in fiscal year 1980, it saves money in fiscal year 1981, and theoretically, it would save money in fiscal year 1982. When we add them all together, it amounts to about \$1 billion.

Mr. DOLE. I thank the Senator for yielding. I think the Senator from North Carolina has raised a good point. I hope the record is clear that nothing is going to happen in 1982 unless we do something next year. If that is the case, then I am not going to support the motion to recommit.

It seems to me we are now responding to some of the objections the Senator from North Carolina has been raising for some time by moving in the direction he would like us to go in the food stamp program. I do not have any quarrel with that, but I do believe that we are faced with an emergency. Maybe it is the doing of the U.S. Department of Agriculture. Certainly, they did not do anything to prevent it.

On the other hand, going back to conference at this late date on something that would not have any impact in any event does not seem to this Senator to be necessary. Plus, as I understand, action on this bill will be followed by action on the appropriations bill. It is a special appropriations bill. I guess we could add some legislative language to that bill. Maybe we could put something in the appropriations bill that says notwithstanding anything in this act or any other act it is not effective in fiscal 1982, some way to protect the rights of the Senator from North Carolina and probably 30 or 40 others who share his views. I am willing to pursue that.

Mr. President, the Senator from Kansas supports the Food Stamp Act Amendments of 1980 conference report.

Immediate action on this conference report will end the crisis that millions of Americans are now facing with a threatened cut-off of their food stamps on June 1. The authorization limitations contained in this bill will insure adequate funding for the food stamp program for 1980 and insure benefits to some 21 million recipients in June.

No other social program has altered the American way of life, as well as the diet, more than the food stamp program. Until the early 1960's when the food stamp program was introduced, many poor and elderly went hungry. Today as a result of this program, we have seen evidence of decreases in infant mortality rates due to the food stamp program, decreases in crippling diseases in the low-income, and with the new provision in this bill in providing a separate dependent care deduction, we are now removing a disincentive to keep the ailing and elderly family member in the home. This dependent care deduction will cover not only young children, but the cost of caring for the elderly. This will allow families to choose to keep the grandparents in the home, even though they are ailing, rather than putting them in nursing homes because it was a choice of that or sufficient food for the family. This provision will help protect the nuclear family and its importance to our society.

Mr. President, this conference report contains significant budget savings for both 1980 and 1981. The Congressional Budget Office has estimated that the savings in fiscal year 1980 will be approximately \$150 million, with savings for fiscal year 1981 at \$550 million. These savings will be achieved through the reduction in fraud, abuse and error through computerization, photo identification, and increased accounting. The major portion of savings will come from replacing the twice a year update for inflation to once a year in computing eligibility and benefits.

RAISING THE CAP

The conference report contains a spending cap of \$9.491 billion for fiscal year 1980, which according to all estimates will be sufficient to full benefits for all recipients through the end of the fiscal year. The funding limit set for fiscal year 1981 is \$9.7 billion, which may be insufficient.

CHANGES IN AID

In addition to the aid to families with ailing and elderly family members in the home, the conference report contains aid to battered women. Presently, women with children residing in public or private nonprofit shelters cannot receive food stamp aid. Under the provisions of S. 1309, these women will now be able to use their food stamps to purchase meals prepared and served by those shelters. It also permits these persons to be considered for eligibility as individual units (parent/child) rather than considered as part of a single household consisting of all shelter residents. S. 1309 will also exclude from household income any payments or allowances made under any Federal, State, or local law for the purpose of providing energy assistance. This measure will also exempt from valuation as a household resource, for the

purpose of assets requirements, any vehicle used to transport a physically disabled household member.

ELIMINATION OF RECOUPMENT

The recoupment provision under the House measure was eliminated from the final report. I believe, Mr. President, that such a provision would have placed the intent of the food stamp program, to assist the needy, in jeopardy even though individuals claimed temporary need. Recoupment of benefits from individuals who earn more than 175 percent of the poverty level is a complex proposal and one in which I believe, and recommended during the conference that the Senate Finance and House Ways and Means Committees take a look at before May 1 of next year.

Mr. President, I would like to commend my distinguished colleague, the chairman of the Agriculture Committee, for his skill in chairing the conference and moving the consideration on the conference quickly so as to meet the May 15 deadline.

Mr. President, the Senator from Kansas believes we have arrived at a good bill for adequate funding of this vital program for 1980; with over a half a billion dollars of savings for 1981. We have reduced error, fraud, abuse, and increased assistance to those households with elderly, disabled, and ailing, as well as those women living in shelters due to domestic violence.

Mr. President, I urge my colleagues to join me in support of this measure.

Mr. President, we did make progress. There were 39 points in dispute, as I understand it. The Senator from North Carolina was there, as were the Senator from Kansas, the Senator from California, the Senator from Georgia, and others. It is the view of this Senator that with one or two minor exceptions we adopted provision after provision saving money. No one quarreled about that. In fact, that was the thrust of the conference under the leadership of the chairman of this committee.

As I view the food stamp program, which may be different from some on this side or the other side of the aisle, it has been a good program. There are abuses and there are faults in the program, as there would be in any program where this many people participated. But on balance it seems to me we are now doing the very things some have suggested. We will make alterations next year. We should tighten up the program. I am committed to do that. I will give my word to the Senator from North Carolina that I will cooperate, if I am here next year.

On that basis, I yield back the remainder of my time.

(Mr. STEWART assumed the chair.)

Mr. HELMS. Mr. President, I would say to the Senator from Kansas, and I may have misheard what he said, that the bill that was passed by the House would take effect in fiscal 1982 instead of 1981. It is a small point but we should be clear.

Mr. DOLE. I think the House-passed bill would have been effective, as I understand it, in fiscal 1981.

Mr. HELMS. I believe it is 1982. It is a small point. Stripping away all of the arguments and assuming that it is cor-

rect to say we have another bite at the apple next year, the point of all this is the fact still remains that the Senate and House are putting their imprimatur on these increased costs, which I understand are going to be \$422 million. We cannot escape that.

The question is, Are we going to put our imprimatur on that sort of thing? This Senator says "no." It will not take 10 minutes to go back to conference—it would not be an inconvenience to this Senator—to go back to conference and for \$422 million I think it would be worth it. You pay your money and you take your choice. I happen to think this program is way out of line, and I think that the majority of the American people who observe the operation of it think it is way out of line.

I think it would be a demonstration of good faith for this Senate to take every precaution not even to put its imprimatur on additional costs which will balloon the ultimate cost of the program.

Mr. President, I reserve the remainder of my time.

Mr. TALMADGE. Mr. President, I commend my distinguished friend from North Carolina for his efforts to correct the abuses in the food stamp program, and also my distinguished friend from California. We have stood shoulder to shoulder in trying to correct the abuses.

Congress can pass laws but Congress cannot administer laws. The abuses take place in the field and in the administration. The conference committee report we have brought to the floor today, which we are asking the Senate to approve, will save \$146 million in fiscal year 1980.

It will save \$560 million in the fiscal year 1981. It would save, theoretically, if the law continued that long, \$326 million in the fiscal year 1982. The only complaint about this conference report that has been offered by any Senator on the floor today is that it did not go far enough in tightening up the law for the fiscal year 1982.

Let me point out, Mr. President, that this law expires on September 30, 1981. So what we are talking about in 1982 is something that will, under the law, not exist. It is a nullity. It is a fight that does not exist.

Next year, one of the first orders of our committee will be to hold hearings, very exhaustive hearings, on the food stamp program. I can assure my friend from California and my friend from North Carolina that we will be standing shoulder to shoulder, trying to tighten up the abuses, the fraud, the waste, and the extravagance in the food stamp program.

As I have pointed out before in my remarks, Congress makes laws but the executive branch of the Government executes laws. The Senator from North Carolina, the Senator from Alabama, the Senator from South Dakota, the Senator from California, and I cannot go out and arrest people who violate the law. We cannot put them in jail. We cannot take them into court. We cannot try them. We cannot sentence them. The execution of the laws has to be handled on the local level, and part of the fraud and abuse that exist at the present time under the food stamp program exists

because local people are not properly executing the law that Congress passed.

I think we have been too liberal in some instances. I do not think that the gross income eligibility standards for a family of four ought to be as high as they are under existing law. In my book, they are too high. But I was in the minority. The Senator from North Carolina is in the minority.

We are talking about a law that Congress passed. We are talking about a law that the President approved. As long as it is the law, it is our responsibility as Congressmen and Senators to uphold that law, and it is the responsibility of the people who execute the law to enforce it, clean up the fraud, clean up the abuses, and rid the program of cheaters.

I am ready to yield back my time if the Senator from North Carolina is ready.

Mr. HELMS. Mr. President, I shall

yield back my time in one second. I just want to commend the Senator from Georgia for his remarks and I assure him that we will stand shoulder to shoulder in trying to work on the bureaucrats downtown.

As the Senator says, we pass the laws and the bureaucracy executes them, I think the Senator said.

Mr. TALMADGE. That is correct.

Mr. HELMS. In this case, the bureaucracy is executing the taxpayers, that is the problem.

Mr. President, I shall not go into it, but the conduct of the bureaucrats administering this program after the 1977 Act borders on being criminal. I say that with no reservation whatsoever. This is the kind of thing that I want to stop and that I know the Senator from Georgia wants to stop. I assure him that he and I will stand shoulder to shoulder to let those administering the program

know that we do not like what they are doing.

I would yield back the remainder of my time, Mr. President, but I have a little problem of a Senator who is coming to the floor. I suggest the absence of a quorum.

Mr. TALMADGE. Will the Senator withhold that until I introduce a table furnished us by the Congressional Budget Office?

Mr. HELMS. Certainly.

Mr. TALMADGE. Mr. President, I ask unanimous consent to have printed in the RECORD at this point Table 1, CBO Informal Current Services Cost Estimate of S. 1309 as ordered reported by the committee of conference on May 13, 1980.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—CBO INFORMAL CURRENT SERVICES COST ESTIMATE OF S. 1309 AS ORDERED REPORTED BY THE COMMITTEE OF CONFERENCE ON MAY 13, 1980

[In millions of dollars]

	Fiscal year—				Fiscal year—		
	1980	1981	1982		1980	1981	1982
I. Current services (Budget authority).....	9,191	10,766	11,963	(h) Poverty guideline updates.....	-15	-50	-56
II. Provisions costed:				(i) Asset restrictions.....	0	-20	-20
(a) Meals for battered women and children.....	+2	+2	+2	(j) Student participation.....	0	-50	-55
(b) Expanded dependent care deduction.....	0	0	+38	(k) Fiscal sanctions for error rates.....	0	-90	-180
(c) Expanded medical care deduction.....	0	0	+30	Total estimated changes from current services			
(d) Medical deductions, outlying territories.....	0	+1	+1	base.....	-146	-560	-2
(e) Retrospective accounting monthly reporting.....	0	-63	-150	Estimated needed budget authority for a current services			
(f) Annualization of thrifty food plan.....	-90	-204	+64	program.....	9,045	10,206	11,637
(g) Annualization of standard deductions, shelter				S. 1309 provides authorization for budget authority of.....	9,490	9,739	0
deductions.....	-43	-86	0				

¹ This estimate assumes that all States participate. S. 1309 makes the provisions optional. Further the estimate assumes start-up within 10 mo. following enactment.

² The authorizations for appropriations for the food stamp program will expire at the end of fiscal year 1981. Therefore, the estimate shown for fiscal year 1982 will only be applicable if the program is reauthorized.

Mr. TALMADGE. Mr. President, I reserve the remainder of my time and yield to the Senator from North Carolina.

Mr. DOLE. Mr. President, will the Senator from North Carolina yield to me so I may clarify a point I think he made?

Mr. HELMS. Certainly.

Mr. DOLE. As I understand it now, the bill reported by the House committee was effective in fiscal year 1981. I understand that, by amendment on the House floor by Chairman FOLEY, it was made effective in 1982.

Mr. HELMS. I am advised that that is correct. I thank the Senator.

Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. I yield 2 minutes to our distinguished colleague, the Senator from Iowa (Mr. JEPSEN).

Mr. JEPSEN. Mr. President, I respectfully request 4 minutes from the Senator.

Mr. TALMADGE. I yield 4 minutes to the Senator.

Mr. JEPSEN. Mr. President, in 1964, when the Food Stamp Act was passed in order to help poor people in depressed areas across the Nation who suffered from malnutrition, the program served 370,000 persons per month at an annual Federal cost of \$30.5 million.

Mr. President, the Congressional Budget Office estimates that the program, unless adjusted, will cost the taxpayers \$10.8 billion in fiscal year 1981. By my figures, that is an increase of 3,600 percent since 1964. CBO figures show that there are 21.7 million persons receiving food stamp benefits; that is 1 in every 10 Americans. The Food and Nutrition Service's targeted outreach levels are for a total participation of 27.2 million; that is 1 in every 7 persons in this country.

I do not believe that anyone in Congress wants to see what some in my home State of Iowa are calling a foodless June. We are near completing the complicated set of budgetary maneuvers which are necessary, according to the law, to raise the spending limit on the food stamp program this year so that truly needy individuals will not go without food stamp benefits—even for a day. According to the Iowa Department of Social Services, over 30 percent of those receiving food stamp benefits in Iowa are elderly or disabled. Fifty-one percent of food stamp recipients have an annual gross income of less than \$3,600, well under the poverty guidelines. These people need food assistance. Last year, when it appeared that food stamp benefits would run out if additional money were not appropriated, I voted for supplemental funding so that no one would go hungry.

I am concerned, however, with the way the Federal Government has managed the food stamp program. Congress gave the Department of Agriculture definite guidelines to follow to insure that those

who are truly dependent on food stamp benefits get them. But the bureaucracy has consistently refused to believe that Congress meant what it said, that there is to be a limit on the food stamp program and that the program was to be efficiently managed within those limits. It can be done.

Mr. President, despite what the Department of Agriculture tells us, the food stamp program is still subject to administrative error, and to fraud and abuse of benefits. A House Government Operations Subcommittee has learned that there are 20,000 cases per month of persons negotiating double food stamp benefits in New York City alone. I recently learned that 55 percent of the population of Puerto Rico receives food stamps. Fifty-five percent of the population of this entire Commonwealth receives food stamps.

Puerto Rico represents nearly 10 percent of the entire food stamp program. Food stamp benefits there are higher than any State in the Union and double the amount received by every State but California and New York. They have the second highest administrative costs and yet still operate the program with the highest rate of recipient fraud of all the States and trusts.

Something is wrong when 55 percent of the population of any State or trust is receiving food stamps, has the second highest administrative costs and the recipient fraud rate is worse than in any other State or trust. Something is wrong when one out of every seven Americans are eligible for food stamps. Something is wrong when a program costs 3,600 per-

cent more than it did just over 15 years ago.

With these facts in mind, I am more than a little concerned when the administration refuses to act according to the intent of the law. The law says that when it is clear that money for full benefit entitlements will not be available for the entire year, a plan must be put in motion to adjust benefits but not to eliminate them and to reduce benefits to those at the higher end of the scale so that those very needy individuals who are dependent upon the program to eat will not go without.

That is where we have some of this bureaucratic blackmail we get right now with the announcement of no food stamps.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TALMADGE. I yield the Senator an additional 2 minutes.

Mr. JEPSEN. I thank the Senator.

We find there is an announcement made, people picketing some of my offices in Iowa, by direction. We have these canned letters, by direction.

I say that on this bureaucratic blackmail, one of these days we will have to find out whether the tail wags the dog, or who is elected to appropriate funds to provide, as we should, for the nutritional diets and the food stamp program. There should not be anyone in our country go hungry, ever. But that does not give people a license to build bureaucracies and to administer programs without any concern for following any of the prudent directions and instructions presented them by Congress.

The administration has done a disservice to the poor of this country by forcing a situation where benefits could be discontinued totally for a few days to a couple of weeks when the law clearly states that in such a situation, there should only be a benefit reduction to those at the least needy end of the scale.

I am sorry that they have chosen to administer the program in this manner, and I would hope that, if the situation ever rises again, they will work within the clear framework of the law instead of emotionally inciting recipients by telling them they will go hungry.

It is obvious that the food stamp program needs some tightening up and I will support proposals to do this so that we can avoid this type of situation in the future. The need for a balanced and nutritional diet for some very poor Americans does not give the Department of Agriculture license to use promotional outreach campaigns to bring so many people into the program that 1 in 7 people in the United States become dependent upon it. I remain hopeful that Congress will be able to act on the extra money for the program before it might have to be temporarily discontinued. No one wants a foodless June.

I thank the Chair.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum and I ask unanimous consent it be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

CXXVI—707—Part 9

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I yield back the remainder of my time.

Mr. TALMADGE. Mr. President, I ask that the motion to recommit be rejected by the Senate, and I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion to recommit. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from North Carolina (Mr. MORGAN), and the Senator from Nevada (Mr. CANNON) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Rhode Island (Mr. PELL) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. HUMPHREY) is necessarily absent.

The PRESIDING OFFICER. Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 29, nays 61, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—29

Armstrong	Hatch	Pryor
Bellmon	Hayakawa	Schmitt
Boren	Heflin	Schweiker
Boschwitz	Helms	Simpson
Byrd	Hollings	Stewart
Harry F., Jr.	Johnston	Thurmond
Cochran	Laxalt	Tower
Domenici	Lugar	Wallop
Garn	McClure	Warner
Goldwater	Proxmire	Zorinsky

NAYS—61

Baker	Glenn	Nunn
Baucus	Gravel	Packwood
Bayh	Hart	Percy
Bentsen	Hatfield	Pressler
Biden	Helms	Randolph
Bradley	Huddleston	Riegle
Burdick	Jackson	Roth
Byrd, Robert C.	Javits	Sarbanes
Chafee	Jepsen	Sasser
Chiles	Kassebaum	Stafford
Church	Leahy	Stennis
Cohen	Levin	Stevens
Culver	Long	Stevenson
Danforth	Magnuson	Stone
DeConcini	Mathias	Talmadge
Dole	Matsunaga	Tsongas
Durenberger	McGovern	Weicker
Eagleton	Melcher	Williams
Exon	Metzenbaum	Young
Ford	Moynihan	
	Nelson	

NOT VOTING—9

Cannon	Humphrey	Morgan
Cranston	Inouye	Pell
Durkin	Kennedy	Ribicoff

So the motion to recommit the conference report was rejected.

Mr. JEPSEN. Mr. President, I do not want my vote in opposition to recommitting S. 1309 to conference committee to be misunderstood. I agree with the intent behind Senator HELM's motion, that is, language pertaining to the program in 1982 should not be used as a reason to expand the food stamp program. Instead, it should be tightened up when Congress reauthorizes it next year. However, I disagree with the timing. The proposal now would only serve to delay the Congress actions on the supplemental appropriations for the food stamp program when there is a possibility that funds could be cut off tomorrow if we delay. As I stated before, no one wants a foodless June.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the next rollcall vote which is going to occur immediately be limited to 10 minutes.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, we are not agreeable to a 10-minute rollcall vote on the next vote, but I advise the majority leader that I have no objection to limiting rollcall votes to 10 minutes on votes following then after that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the conference report.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from North Carolina (Mr. MORGAN), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. HUMPHREY) is necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber who has not voted who desires to do so?

The result was announced—yeas 65, nays 25, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—65

Baker	Biden	Bumpers
Baucus	Boren	Burdick
Bayh	Boschwitz	Byrd, Robert C.
Bentsen	Bradley	Chafee

Chiles	Huddleston	Pressler
Church	Jackson	Pryor
Cochran	Javits	Randolph
Cohen	Jepsen	Riegle
Culver	Leahy	Roth
Danforth	Levin	Sarbanes
DeConcini	Long	Sasser
Dole	Magnuson	Schweiker
Durenberger	Mathias	Stafford
Eagleton	Matsunaga	Stevenson
Ford	McGovern	Stewart
Glenn	Melcher	Stone
Goldwater	Metzenbaum	Talmadge
Gravel	Moynihan	Tsongas
Hart	Nelson	Welcker
Hatfield	Nunn	Williams
Heflin	Packwood	Zorinsky
Heinz	Percy	

NAYS—25

Armstrong	Helms	Simpson
Bellmon	Hollings	Stennis
Byrd	Johnston	Stevens
Harry F., Jr.	Kassebaum	Thurmond
Domenici	Laxalt	Tower
Exon	Lugar	Wallace
Garn	McClure	Warner
Hatch	Proxmire	Young
Hayakawa	Schmitt	

NOT VOTING—9

Cannon	Humphrey	Morgan
Cranston	Inouye	Pell
Durkin	Kennedy	Ribicoff

So the conference report was agreed to. Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DECLARATION OF A NATIONAL EMERGENCY ON NOVEMBER 14, 1979

Mr. MATHIAS. Mr. President, 6 months have passed since President Carter's declaration of a national emergency on November 14, 1979. His declaration was made under the authority of the National Emergencies Act, which evolved out of the investigation of past national emergencies by the Senate Select Committee on National Emergencies and Delegated Emergency Powers.

The National Emergencies Act which became effective September 14, 1978, suspended various extraordinary powers and authorities exercised by the President by virtue of several existing states of national emergencies whose justification had long since passed into history. In addition, that far-reaching act established authority for the declaration of future emergencies in a way that defines their use and insures regular and orderly congressional review. One such review mandated by the act is congressional consideration, 6 months after a proclamation, whether a state of national emergency should be terminated.

As we are all too painfully aware, the current state of emergency was brought on by the illegal seizure of the U.S. Em-

bassy in Tehran and the taking of U.S. personnel as hostages. These despicable actions instigated or countenanced by the Iranian authorities violate international law and legal norms of conduct governing relations between nations of the world community. They have been widely condemned both by the international community and its judicial arm, the International Court of Justice.

The President's November 14, 1979 and more recent April 17, 1980 actions in this connection had a two-fold purpose. They were intended to signal to the Iranian authorities in a meaningful but non-belligerent way the seriousness with which we regarded their lawless behavior. They were also intended to block withdrawal of official Iranian funds from U.S. banks and their foreign branches and subsidiaries in order to protect claims on Iran by the United States and its citizens.

All indications are that these Presidential initiatives enjoy widespread backing in Congress and the country at large. In these circumstances it would have been easy for Congress to close its eyes to its responsibilities under that National Emergencies Act and to have marked the 6-month review period by following the path of least resistance.

I am happy to report that the rule of law has prevailed and that the Congress has not fallen into old habits of calculated or quiet indifference. The Senate Foreign Relations Committee has carefully examined the question and has concluded that no cause exists for consideration of a resolution to terminate the current state of emergency. The committee has formally conveyed its decision to the President and the leadership of the Senate.

An important precedent is being established and it is useful to note it carefully and publish it widely. It has my honor to serve with the Senator from Idaho (Mr. CHURCH) as cochairman of the select committee and I feel a continuing responsibility to insure that the law is strictly observed.

Mr. President, I make the point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. HOLLINGS. Mr. President, I am prepared to make the motion for the waiver with respect to food stamps. At the conclusion of these remarks, I will make that motion on behalf of the Budget Committee to waive the application of section 311 of the Budget Act to House Joint Resolution 545, the emergency food stamp supplemental bill. I will do so very reluctantly, and only because circumstances compel this action.

The Budget Act has been waived only twice in its 5-year history. I would not move to waive any provision of the Budg-

et Act now if it involved a violation of the integrity of the budget process or would result in a breach of the budget Congress will adopt for 1980.

Unless the application of section 311 is waived, this emergency supplemental bill for food stamp benefits is subject to a Budget Act point of order. That is because the spending ceilings Congress agreed to last fall for 1980 have been exceeded by events beyond congressional control.

We are all familiar with the events since last fall which have increased budget costs. These factors required both Houses of the Congress within the last week to vote to increase the budget totals agreed to last fall, in order to compensate for these unforeseen, uncontrollable, and changed conditions. I want to remind you of a few of them now.

First, interest rates have shot up to unprecedented levels, as a result of the policies adopted by the Federal Reserve after each House had already adopted its budget last fall. Interest in the Federal budget is now estimated to be over \$65 billion—\$7 billion more than was budgeted for in the fall.

These high interest rates caused a delay in \$2 billion worth of sales of federally held mortgages from 1980 to 1981, to avoid unnecessary losses from those sales. The \$2 billion in proceeds from those sales would have reduced budget authority and outlays equally in 1980. Because of the delay, the 1980 budget has increased by \$2 billion instead.

Second, American diplomats and marines have been taken hostage in Iran and remain in captivity, and the Soviet Union has invaded Afghanistan.

In light of these international events, the President's defense requests for fiscal 1980 have increased by \$4.1 billion in outlays. In addition, an accounting change affecting foreign arms sales will increase budget totals by \$1.2 billion in outlays, even though that change involves no new Federal spending at all.

Third, in response to the invasion of Afghanistan, the President imposed an embargo on U.S. grain sales to the Soviet Union. To shield American farmers from the effects, the President followed up with unilateral action to support domestic grain prices.

These agricultural initiatives and other re-estimates of the cost of existing agriculture programs will add \$3.4 billion to the amounts assumed in the fiscal 1980 budget.

Fourth, a nearly 4 percentage point addition to the inflation rate since last July when we marked up the 1980 budget resolution has added an additional \$1.5 billion to the budget estimates for programs like social security which are indexed to the rate of inflation.

These four developments, unforeseen and uncontrollable by Congress, have added a total of more than \$19 billion in outlays to Federal spending for fiscal 1980. All this happened without the enactment of a single spending bill by the Congress.

In light of these factors, both Houses have voted to increase the spending to-

tals for 1980 in order that the Government can continue to function. Without an increase in the spending totals, many essential needs will not be met.

The title XX conference report upon which State governments and millions of Americans depend for social services cannot be enacted.

Trade adjustment assistance benefits will be denied to millions of workers now thrown into unemployment.

Black lung benefits will be cut off.

Urgently needed defense supplemental spending cannot be enacted.

The space shuttle program will be delayed, unacceptably endangering the success of missions important to our national security.

And of course the food stamp program would run out of money in early June, leaving 21 million Americans without nutrition benefits for the rest of the year.

Revisions in the 1980 budget have been passed by both the House and Senate. Both the House and Senate budget resolutions include provisions for continuing the food stamp program in 1980.

The overall spending totals for all Federal programs in the House resolution, however, are more than \$5 billion higher than in the Senate resolution. That major difference is now the subject of the House-Senate budget conference.

That budget conference met all day yesterday until late last evening and is meeting again today and into tonight to negotiate the differences between the two resolutions.

As the press reported this morning, the Senate is fighting in that budget conference to reduce the spending totals in the House resolution.

The exact allocation the conference will agree on for food stamps is not yet clear, just as the final version of this appropriation for the food stamp program has not yet been determined. Everyone should understand one thing, though. If the budget conference decides—and the House has a lower figure than the \$3 billion amount here, than the Senate figure—on a lower spending allocation for the food stamp program than the Appropriations Committee finally agreed to in the food stamp conference, some other supplemental appropriation will simply have to be reduced.

We do not intend to give a blank check in the budget for every supplemental spending bill.

The budget revisions of both Houses assume a supplemental food stamp bill on the order of \$2.4 to \$3 billion will be enacted so this nutrition program can stay in operation. The exact size of the spending will not be known until after the appropriations conference. The exact amount of room the budget will contain for that appropriation will depend on what we do in the conference on the budget. Any excess in the food stamp spending bill compared to the budget resolution will mean a reduction in other programs.

As most Members know, I have my own reservations about the growth in the food stamp program. The reforms contained in the new Agriculture Committee food stamp bill which the Senate

has just adopted will reduce some of the unwarranted costs in the program, such as food stamps for well-to-do college students. But I think continuing oversight and additional reforms are necessary to assure that the food stamp benefits are targeted to those who really need the help.

Under all these circumstances, the Budget Committee will not oppose a waiver of the now-obsolete spending limitations in the second budget resolution for this emergency food stamp bill. To do so would frustrate the food stamp program and would ignore the budget revisions for 1980 which have already passed both Houses. Those revisions assume an increase in the food stamp program budget.

As I said, I regret such a waiver is necessary. I wish we had had time to finish the conference with the House on the 1980 budget revisions before the food stamp bill had to be considered.

A number of factors have delayed completion of the 1980 budget revisions. For one thing, the full extent of some increased costs, like social security and defense outlays, did not become known until after the President revised his own January budget in March of this year. Then the longest debate we have ever had in the Senate on the budget resolution delayed us several days further in getting to conference.

So now we confront the fact that unless we act today, millions of Americans may face a delay in their food stamp benefits for June, with great hardship to their families.

Both Houses have already approved an increase in the food stamp program in their budget resolution revisions for 1980. The conference on that resolution will surely agree to a significant revision in the food stamp program. So it does not serve any Budget Act purpose to delay the June food stamp benefits while the budget conference completes action on all the remaining disputed budget items, including the entire 1981 budget. Both Houses, in their budget resolutions, clearly intended that the food stamp program should be continued.

It is for these reasons that I move waiver of the application of the Budget Act to this appropriation. This waiver is not a precedent for any future action. It is based on the unique facts of this case. Both Houses have already approved substantial increases in the budget for the food stamp program in their already-passed budget resolutions.

The conference is going to agree to such revisions but has not had time to finish its work. To raise the point of order would serve no Budget Act purpose but would threaten severe hardship for millions of needy Americans.

Therefore, pursuant to section 904(b) of the Congressional Budget Act of 1974, and in light of the action already taken by both Houses to revise the 1980 congressional budget including provisions to accommodate increased food stamp costs, I move that section 311(a) of the Congressional Budget Act of 1974 be waived for the purpose of considering House Joint Resolution 545, a joint resolution

making an urgent appropriation for the food stamp program for the fiscal year 1980.

The PRESIDING OFFICER (Mr. TSONGAS). The motion will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) moves as follows: That section 311 (a) of the Congressional Budget Act of 1974 be waived for the purpose of considering H.J. Res. 545.

Mr. HOLLINGS. Mr. President, I yield to the Senator from Oklahoma (Mr. BELLMON).

Mr. BELLMON. Mr. President, I join the distinguished chairman of the Budget Committee in recommending waiver of section 311 of the Budget Act so that the urgent supplemental appropriation for the food stamp program can be considered by the Senate.

I support this waiver with considerable misgivings, Mr. President. Section 904 of the Budget Act which authorizes this waiver is a step which should be taken only as a last resort to avoid stopping a spending bill for which delay will work an intolerable hardship. I would point out that section 904 has been invoked only twice before in the 6-year history of the Budget Act. I reluctantly concluded that we are facing an intolerable situation relative to the food stamp program.

I would like to remind the Senate, however, Mr. President, that the fact that the food stamp program is about to run out of money is not the fault of the budget process.

Last fall when Congress approved the second budget resolution for fiscal year 1980, it reserved \$8.1 billion for the food stamp program. That is \$1.9 billion more than has been appropriated for the program so far this year.

I want to make that point again, Mr. President. The budget includes \$1.9 billion that has not yet been appropriated. So we are not out of money because of any failure of the budget to take into account the legitimate needs of this program.

If Members ask why was not the additional money provided, the reason was the authorization bill which the Senate approved only a few minutes ago was held up on the House side because apparently the leadership of the House was afraid of what might happen to that bill when it was taken to the floor. The bill was not taken to the floor until after the House had approved its revised budget resolution for fiscal year 1980, only a few days ago.

So, Mr. President, the situation we now face on food stamp funding was not a result of any inadequacy or failure of the budget process.

I also want to comment briefly, Mr. President, on the performance of the Department of Agriculture regarding cost estimates of the food stamp program.

Earlier today I placed in the RECORD a chart showing a history of the costs in the food stamp program. Later today I intend to offer an amendment to this bill making clear that the USDA will be required to live within the appropriation

this bill provides for the rest of fiscal year 1980. At that time I will talk some more about the recent changes in cost estimates of the food stamp program. But for now, Mr. President, let me just say that I believe the USDA has been careless and unreliable in its cost estimating work. We have had a new set of numbers, always higher numbers, month after month. At least some of the responsibility for the urgency in which we find ourselves must be placed squarely on the inability or the unwillingness of the USDA to give the Congress timely and accurate information.

In conclusion, Mr. President, I support the waiver which has been introduced by the distinguished Senator from South Carolina. I do so with the understanding that we have a highly unusual problem and that the action we are taking today is not a precedent to be followed frequently in the future. If the Senate ever gets to the point that it sets aside the Budget Act frequently, it will have mortally wounded the budget process and, in my opinion, that would be a death blow to the newly found fiscal discipline which we are experiencing this year in the Senate.

I thank my friend for yielding.

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. ARMSTRONG. I would like to inquire of the distinguished chairman and the distinguished Republican on the Budget Committee about their plans for the future. It is my understanding that by granting this waiver we will permit the Senate to proceed immediately to the consideration of a \$3 billion supplemental appropriation and if enacted that would give us a total of \$9.2 billion for food stamps during fiscal year 1980. Am I correct in those numbers? Is \$9.2 billion the correct number?

Mr. HOLLINGS. The Senator is correct.

Mr. ARMSTRONG. My question is this: Is the expectation of the chairman that \$9.2 billion will be sufficient to pay the cost of the food stamp program for the balance of the year, or is it likely or possible that we may face yet another budget resolution or another budget waiver or an additional supplemental prior to the end of the year? Is \$9.2 billion contemplated as the final total cost of this program for 1980?

Mr. HOLLINGS. That is the Senator's hope and mine. I know it would be \$9.2 with the \$100 million in the bill just passed.

This is the best estimate of the Agriculture and the Appropriations Committees. At this particular point we just have no way in the world of telling. We are arguing for a lower figure in the budget conference right now, but I do not want to be devious and I cannot guess what food stamps will amount to.

Mr. BELLMON. If the Senator will yield, I would like to call the attention of the Senator from Colorado to a letter which is on his desk and also a copy of an amendment which I intend to introduce as soon as it is in order. The text of the amendment reads:

Provided further, That is is the sense of Congress that no further appropriations will be made for the food stamp program in fiscal year 1980. The sum provided herein substantially exceeds previous estimates of program needs and fully utilizes projections of budget authority and outlays remaining within the congressional budget's ceiling for this purpose. The Secretary of Agriculture is therefore directed to utilize those procedures authorized in section 18 of the Food Stamp Act of 1977, as amended, to assure that program costs do not exceed available funds and to avoid unnecessary disruptions or substantial reductions in benefits under the program.

What we are saying is to run the program with the amount of money we provide and do not come to the last of August or September and say the program is about to run out of money.

Mr. ARMSTRONG. I appreciate that word of explanation. I associate myself with the course of action recommended by the Senator from Oklahoma. But I assume that the section of the Food Stamp Act he references is that section known as the Lugar amendment. The Lugar amendment adopted by the Congress last year provides what the Senator suggested, that is, that the Secretary of Agriculture adjust the eligibility requirements of the food stamp program at the high end so as to tailor the total cost of the program to the money which had then been authorized and appropriated by Congress.

The Secretary of Agriculture did not choose to do that. He was encouraged to ignore the Lugar amendment by various Members of the Senate, Members of the House, and by report language adopted by various committees. I am very happy to have this expression from the Senator from Oklahoma. I want to be unequivocally on the record that I for one, as one Member of this body, do in fact expect the Secretary of Agriculture to follow the mandates of the Lugar amendment and the mandate of the Bellmon amendment, if, in fact, it is adopted by the Senate. This program is out of control. It is a travesty of good planning. It is an affront, in my opinion, to the taxpayers of the United States. It literally amounts to middle-income families being asked to pay taxes to support people who are already better off than they are in many, many instances.

We have been through a litany here, on the floor and in the Budget Committee conference, on the abuses of this program. It is a classic example of a program predicated on a noble idea which has run completely out of control.

I do not think I need to say more. I think Senators are well aware of that. I just want to make the record that there is a growing sentiment in this body to draw the line and be sure that we are taking care of the needs of the truly hungry, but then to put a stop to the astronomical increases in the costs of this program which, in my view, cannot and should not be supported.

Mr. BAKER. Mr. President, will the Senator yield to me for just a moment?

Mr. HOLLINGS. I yield, Mr. President.

Mr. BAKER. Mr. President, I take this opportunity to commend the distinguished Senator from Colorado for his statement, with which I entirely agree.

I commend the Senator from Oklahoma for offering this amendment. I hope that the Secretary of Agriculture and the administration will take full account of the description that has been made of this program.

It is a humane program, it is a necessary program, and it is well motivated. But this program is being administered in a shameful way. It is shameful to me that the Secretary of Agriculture would completely ignore the clear, stated, statutory intent of the Congress of the United States. I hope someone will note these words and note that, for the part of the Senator from Tennessee, I shall do everything in my power to see that that bit of statute law is complied with if it is reiterated here, as indeed I hope it will be with the Bellmon amendment.

Mr. MCCLURE. Mr. President, will the Senator yield to me?

Mr. HOLLINGS. Yes, I yield.

Mr. MCCLURE. Mr. President, I ask for the yeas and nays on the motion to adopt the budget waiver.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCLURE. I thank the Chair.

Mr. President, if I recall correctly, it was on Monday of this week that we completed action on the budget resolution, including the first concurrent budget resolution for 1981 and the second concurrent budget resolution for the 1980 budget.

If I recall correctly, the figure in that budget resolution for this program included a supplemental for 1980 of \$2.4 billion. Am I correct?

Mr. HOLLINGS. That is correct.

Mr. MCCLURE. Mr. President, this is another one of the very difficult decisions that various Members may, from time to time, have to make. The reason I asked that question is I think it is appropriate for the American people to note that the Senate of the United States, on Monday of this week, took action in which they promised a balanced budget, generated favorable headlines in newspapers all across the country on Tuesday morning, and, on Tuesday afternoon, the Appropriations Committee started to unbalance it by violating the resolution which this body had adopted the day before. That is irrefutable fact.

I agree with the Senator from Colorado with respect to the abuses in this program. I commend the Senator from Tennessee for his remarks. I applaud the Senator from Oklahoma for his attempt to adopt again language which has, in the past, proven cosmetic only.

But I say to the Senator from Tennessee that it is not simply the Secretary of Agriculture who is at fault. The Congress of the United States is at fault. This program is not uncontrollable save we do not dare control it. The political implications of trying to tighten up on a program of this kind have proven to be greater than the capacity of this body to confront.

The result is that, on Monday, we take one action; on Tuesday we take another action; on Wednesday, we take another action; next week, we shall take another

action, and the hope for the balanced budget goes down in flames.

I am mindful of the difficulty the managers of the Committee on the Budget have in trying to come forward with this budget waiver today. I agree with them that the waiver is, perhaps, a better way than simply ignoring it. But, first of all, Mr. President, May 15 is an illusory date. It is a date which the Secretary of Agriculture has indicated that he would like to meet.

That does not mean we have to meet it. It does not mean that food stamps will not be available in programs prior to the 1st of June. There is enough money to run this program into the month of June. We do not have to legislate today against this deadline of May 15. That is purely an arbitrary deadline designed to make it more difficult for us to legislate in a more orderly manner.

I can understand that the Senator from South Carolina and the Senator from Oklahoma did not make that date. They did not make that situation. They are confronted with it.

Yesterday, Mr. President, in the Appropriations Committee, as we were debating the question of the supplemental, the Senator from North Dakota (Mr. Young) offered an amendment which would have said that none of the funds expended under the supplemental could be used to provide food stamps to anyone who had a net worth of \$75,000 in addition to his home.

Mr. President, there are a lot of working men and women in this country. You go tell that to a guy who is working in a factory—living in a trailer home, who has no assets, he has no home, he rents—that he has to pay taxes to pay money to people who own their own home and have \$75,000 worth of assets in addition to it. And that very, very generous amendment was defeated.

The Senator from North Dakota withdrew it. The Senator from Arizona (Mr. DeCONCINI) then offered it, and it was threatened to be filibustered, and it was withdrawn because of the threatened filibuster in the committee.

Mr. President, if we cannot come to grips with this program by saying hard-working men and women of this country cannot be required to pay welfare to people who are better off than they are, than they themselves are, no wonder the American people rebel. I, for one, will vote against this budget waiver and I hope that others also will vote against the budget waiver. And, perhaps, if the budget waiver is defeated, then the responsible authorizing and appropriating committees can, in the next week, come to grips with the problem in a way that will yield some relief to the taxpayers of this country, to the people who work, pay their own way, do their own bit to provide for themselves, without detracting from our ability to provide humanitarian relief, food relief and other welfare relief to those people who cannot do for themselves.

Mr. President, if there is one message that comes through to me from my constituents when I visit at home, it is that the hard-working men and women of this country are tired of paying taxes to support programs that the political in-

stitutions of this country do not have the courage to control. That is exactly what we are doing here this afternoon.

I thank the Senator for yielding.

Mr. ARMSTRONG. Would the Senator yield to me for a moment?

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield time to the Senator from Colorado.

Mr. ARMSTRONG. I thank the Senator for yielding.

Mr. President, I want to pursue a point made a moment ago by the distinguished Senator from Idaho. I do so with full recognition of what happens to the bearer of bad news. He recounted the sequence of events of last week by which Congress first said we were going to balance the budget and then progressively took steps to unbalance the budget. I just want to report what has happened since he tuned in last. I say to the Senator that he left off the story at what happened in this Chamber yesterday. I would like to report to him what has happened in the last 30 hours or so in the conference on the budget.

The Senator may remember that we sent to conference an increase in spending for fiscal 1980 of some \$22 billion—that is, a third concurrent resolution on the budget—some \$22 billion above the level which, last December, we set and which was set after a representation by the then chairman of the Budget Committee that there would be no third concurrent budget resolution and, in fact, after Members and the world were warned that we would not tolerate further increases. In fact, we were told in solemn terms that every committee and every Member had better realize that we were not going above \$547 billion. A week ago, we did go above it by \$22 billion.

What happened yesterday and today is that so far, in the first half dozen functions for 1980, we have added another \$6 billion above the \$22 billion, above the \$547 billion.

That brings, by my calculation, the deficit—if, in fact, the conference reports such a measure—to a total of \$43 billion for fiscal year 1980. In addition, if the court sustains the lower court action on the oil import fee, as I personally hope they will, that will knock off another \$3 billion, raising the deficit for this year to \$46 billion.

I mention this, not because it bears directly on this question of this budget waiver, but because I hope Senators will speak to the conferees and urge them to come to their senses, because for a conference of this body to go to conference with the House and agree to that kind of spending increases for 1980, when our economy is unraveling at every corner, suggests to me that the conferees have lost touch with the economic realities of our country.

I do not believe that if we submitted such a report to a nationwide referendum it would be defeated by less than 4 or 5 to 1.

I have put my fellow conferees on notice that if they bring it back to this body, there is every likelihood it will be defeated.

But, rather than that, it seems to me

the responsible thing to do would be for some Senators, not conferees, to let those conferees know how they feel and whether or not they are prepared to support increases of that magnitude for 1980.

I am also concerned about what that kind of attitude bodes for 1981.

As I understand it, we are just on the verge of starting our conference with the House on 1981, and I will undertake to keep Senators informed on that as we make further progress.

Mr. EXON addressed the Chair.

Mr. HOLLINGS. I yield to the Senator from Nebraska.

Mr. EXON. I thank my friend from South Carolina and I thank the Chair.

Mr. President, I associate myself with the excellent remarks made on the budget waiver introduced by the Senator from South Carolina, commented on by the Senator from Oklahoma, further commented on by the Senator from Colorado, further commented on by the Senator from Tennessee, further commented on by the Senator from Idaho, all good remarks. I share the concerns that have been expressed by all.

I say that I feel that the Secretary of Agriculture certainly is the one primarily at fault as we face this situation for finishing out the food stamp expenditures for the rest of this year.

If I understand it correctly, the budget waiver we have referred to has little or nothing to do, however, with the 1981 budget that we passed.

If we accept the waiver that has been introduced by the Senator from South Carolina, backed by the Senator from Oklahoma, in essence, what we will be doing is simply providing the additional \$3 billion which is necessary by estimates to maintain the food stamp program for the rest of this year.

I think it is important we do not mix it up with fiscal 1981.

It is true we will be raising the deficit for 1980, but I do not think, as I understand it, it has anything directly to do with balancing the budget in 1981.

I also say, Mr. President, that as much as I am against poor fiscal management, and I think that is what we have here with the money running out in the food stamp program, despite the fact that the Lugar amendment probably could and should have been used, I would like to hope we might begin to address ourselves as to how we will make sure things like this do not happen in the future.

Some of us on the floor have had a great deal more experience at this than I. I am wondering if it is possible, not this year, but in 1981, for example, to say that whatever amount of money we appropriate for the food stamp program, that the Secretary of Agriculture is specifically directed by the Congress that at the end of January, if the expenditures for the first month of the year, or whatever, the fiscal year basis, of course, would be October, but for the first year for which the money is appropriated, the Secretary of Agriculture would be required by the Congress to make a computation, and if more than one-twelfth of the money expended for the first

month has run over the appropriate figure, could we not direct him to reduce, direct him by law to reduce, the payout for the food stamp program for the next month, and reduce it further on down the line?

Perhaps I am asking that as a question of my colleagues to see if it might work.

I also say, as much as I am concerned, Mr. President, about the increased appropriation that is needed, I am going to support the waiver because I do not believe we can afford, as individuals, to say to the many people in this country that rely on food stamps, many of them for their only source of food, that we will not give them that money because the Secretary of Agriculture or someone else fouled up.

The PRESIDING OFFICER. The time of the Senator from South Carolina has expired. There are 25 minutes remaining to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I will yield to the Senator from South Carolina in a moment. But I would like to make a comment before that.

Mr. President, to keep the record straight we probably ought to review what happened on the food stamp appropriation bill last fall.

The fact of it was that at that time the authorizing level was at \$6.2 billion, and that is as far as we could go in providing money for the food stamp program.

Most of us, in fact I suppose everyone on that committee and in the conference, knew that was not enough. We knew the program could not realistically be operated for a full 12-month period with \$6.2 billion. We knew we would have to provide more in the spring supplemental.

So this is not an unexpected situation. We have been waiting for the authorization bill to pass.

We appropriated clear up to the level that had been authorized at that time. So this situation should not happen again.

Mr. President, in connection with the comments made by the distinguished Senator from Nebraska, the language which I discussed earlier, of an amendment I propose to offer when it is appropriate, should help take care of the problems as far as the balance of fiscal year 1980 is concerned.

I am a member of the Appropriations Committee. It is my intention to offer similar language on the 1981 appropriations bill to make it stronger, if we can figure a way to do it.

I say to the Senator from Colorado, the fact that the Lugar amendment was not followed in 1980 may be because it was plainly impossible to operate the program at the low level which was provided last year.

But we will provide a realistic level this year, since it is more realistic, and by putting this language in the appropriation bill I feel we will get the compliance of the Secretary of Agriculture.

So I hope we are making some progress in trying to bring it under control.

I yield to the Senator from South Carolina.

Mr. HOLLINGS. I thank my distinguished colleague from Oklahoma, Mr. President.

One of the Senators said that time and again and every day it changes. There is no question that the Federal budget changes within the day.

Specifically, in marking up our budget now, we find that the Finance Committee has met and voted down the excise fee on imported oil.

If that is the case, we have lost \$3.4 billion that was counted on in the 1980 budget that we are in conference on at this moment, and we will have to balance the budget without an import fee for 1981.

Additionally, I am told by the distinguished chairman of the Finance Committee that there is very little opportunity of passing a withholding tax on dividends and interest.

I happen to believe that we should not pass one.

That would be another \$4.3 billion, and the food stamp bill itself is hit.

Talking about the changes from Monday to Wednesday here we assumed Monday night during debate on the budget resolution that we would save \$1.4 billion in the food stamp program in 1981, and the reform bill comes to the floor and saves only about \$525 million. So, already, we are \$900 million shy.

I sympathize with what the Senator from Idaho and others are pointing out and emphasizing. I especially identify with the adulteration of the food stamp program and my misgivings about it.

I hate to see the hungry poor being exploited, for a program that should cover around 6 million to 8 million, at best, but that now will have, in the coming year, some 23 million participants.

There are several reasons for the soaring figures. One, when we did away with the cash requirement, more started coming in. Then, as they came in to qualify for low income energy assistance, they were told, "By the way, you aren't on the food stamp rolls. You better get on that and get eligible for that, too." That has been sending the program up through the ceiling.

Let us find a way to control it, and not just depend on the Lugar amendment.

The Secretary of Agriculture has promulgated regulations which state:

In prescribing the manner in which allotments will be reduced under subsection (b) of this section, the Secretary shall ensure that such reductions reflect, to the maximum extent practicable, the ratio of household income, determined under section 5(d) and 5(e) of this Act, to the income standards of eligibility, for households of equal size, determined under section 5(c) of this Act. The Secretary may, in prescribing the manner in which allotments will be reduced, establish (1) special provisions applicable to persons sixty years of age or over . . .

It says, "may." It does not say "do that." He may also give "minimum allotments after any reductions are otherwise determined under this section."

So there is a lot of permissive language.

With regard to the amendment of the Senator from Oklahoma, I hope we can do more than say it is just the sense of

Congress. If the distinguished Senator will bear with me, I want to be a cosponsor, but what I want to do is to give specific instructions to the Secretary of Agriculture so that he will know the policy of Congress. He could say, "I had every reason to believe this. I talked to the leaders over there; I talked to the Appropriations Committee; I talked to the others on the House side; I talked to the others in Agriculture; and they said, 'Of course we're going to pay.'"

I hope we will get a majority by being categorical, by being specific, and not leaving it to discretion—by giving specific instructions, either by cutting off the funds or, as the Senator from Oklahoma intends, stating that there shall be no further appropriations. Then, upon the enactment of this provision, the Secretary will start implementing those regulations.

I would rather it say that it is required of the Secretary, so that he knows his duty and so that we will not blame the Secretary and the system if it is not carried out.

We did agree on Monday night, I say to the distinguished Senator from Idaho, but that did not bind the Appropriations Committee.

The distinguished Senator from Washington acts with his priorities and with his conscience and with his feelings, and the majority within the Committee on Appropriations also act; so it is not necessarily bad faith. We give them a figure; and if we want more given, give them more, and do not say it is a breach of faith. We actually did it on Monday, and we are busting the budget on Wednesday.

I want to hold to those figures, but let us be more specific in the language and in the directions.

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. BELLMON. How much time does the Senator desire?

Mr. ARMSTRONG. I just want to ask a question.

Mr. BELLMON. I yield.

Mr. ARMSTRONG. I completely endorse the discussion of the chairman, and I agree with what he has said.

Of course, the crucial issue then becomes this: at what level we set the spending. The bill in its present form suggests an additional \$3 billion, which is well above the mark established 72 hours ago by the Senate.

What I am wondering is this: Is the chairman suggesting that we amend the bill to conform to that mark and then to provide the language of the Bellmon amendment as a discipline on the process?

Mr. HOLLINGS. For starters, I think it should be a policy, if it is going to have support. I would make it the Bellmon language at this point, for the remainder of this fiscal year.

There is a fundamental question involved. Should we tax the family making \$15,000 and \$18,000—middle America—should we tax them to send three meals a day to the family of four making \$10,000? We have a categorical cutoff on income.

Mr. ARMSTRONG. We are in agreement on that.

But the Senator's point, as I understood it, was that under the language of the Bellmon amendment, we would be making it clear that if the Department saw that the program was about to exceed the appropriated amounts—

Mr. HOLLINGS. And they are beginning to rumor that now.

Mr. ARMSTRONG (continuing). Restriction would be exercised.

Mr. HOLLINGS. Right.

Mr. ARMSTRONG. I am only suggesting to the Senator that that admission only becomes meaningful if we set the spending ceiling at the level which will impose some discipline.

Mr. HOLLINGS. That is what the Senator from Oklahoma is doing. He is fixing that ceiling, and I just fix it more categorically and specifically. Rather than saying that it is the sense of Congress, I think it should say that no sum shall be provided—

Mr. ARMSTRONG. This is what the Senator has not come to grips with: The bill calls for an additional appropriation of more than \$3 billion, which exceeds the amount presently estimated by the Department to be necessary.

Mr. HOLLINGS. The House figure is \$2.6 billion, and we compromised that down below.

Mr. ARMSTRONG. How about if we took the House figure of \$2.6 billion? That would then place the House and the Senate in agreement, and it would provide the amount which the administration now estimates would be necessary to run the program for the remainder of the year.

Mr. HOLLINGS. I refer that to the chairman of the Appropriations Committee.

Mr. MAGNUSON. Mr. President, these are the figures we have: The amount enacted to date is \$6.188 billion. The President's January request was \$2.556 billion. That is the House figure. The President's March revised budget request was \$2.791 billion.

We asked CBO to give us an estimate, and they estimated \$3.002 billion. The latest figures from the Agriculture Department, in May indicate that they need from \$3 billion to \$3.3 billion.

So the committee figure represents an increase over the President's January request, and the House figure, of approximately \$480 million.

Mr. ARMSTRONG. Will the chairman say again the number that the administration has requested?

Mr. MAGNUSON. In January, the administration requested \$2.556 billion.

Mr. ARMSTRONG. And in March?

Mr. MAGNUSON. In March, they requested \$2.791 billion.

Mr. ARMSTRONG. Since the purpose of the Bellmon amendment is to hold the administration accountable for their administration of the program within what they say is necessary, would we not be wise to grant the amount which the administration has requested and not some higher amount?

Mr. MAGNUSON. We are dealing with a difference of approximately \$200 mil-

lion. The committee recommended \$3 billion, which is the latest figure we have from the Congressional Budget Office.

I agree with what the Senator from Oklahoma is trying to accomplish, to put a cap on this, because the cost has gone up and up. We figured that the \$3 billion amount would be enough to take care of the program for this fiscal year so that we would not have to have another supplemental.

This is only for 1980; 1981 is another story. The food stamp program expires in 1981; and that is when the Congress can make all of the amendments we wish in order to change the eligibility standard, or whatever else you desire, from what it is now. The Senator from North Dakota had a good amendment. But such amendments to the basic operation of the program should wait until we take up the matter of changing the whole program next year. I may very well vote for many changes at that time.

The only thing the Appropriations Committee had to go on is the CBO estimate of \$3 billion. The President has not sent up any further request, and the Agriculture Department has informally said in May—this is a week ago—that they wanted \$3 billion.

I just want to put the figures straight.

Mr. ARMSTRONG. I think the Senator has done that.

The bottom line is this: For the Senate to adopt the bill in its present form is to literally appropriate more than the administration has requested. I do not see how we can square that with discipline. I think it would be well, if we want to adopt the spirit of the Bellmon amendment and conform to all we are saying and reform the program next year, that the highest number the Senate should adopt would be the highest number which has been requested by the administration, not some figure above that.

Mr. MAGNUSON. In March the President requested \$2,791,000,000.

The Senator from Oklahoma knows how these things operate. We figured that a conference committee might end up between \$2,550,000,000 and \$3 billion or at what the President requested, \$2,791,000,000.

Mr. BELLMON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Oklahoma has 7 minutes and 47 seconds remaining.

Mr. BELLMON. Mr. President, how much time does the Senator from Nebraska require?

Mr. EXON. One minute.

Mr. BELLMON. Mr. President, I yield to the Senator from Nebraska.

Mr. EXON. Mr. President, without objection, I ask unanimous consent that I be added as a cosponsor of the amendment offered by the Senator from Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I have one question for the Senator from Oklahoma. Before I pose the question, I wish to say that I suspect there is little we can do

about the food stamp program and its allocation for the remainder of this year.

I ask a question of the Senator from Oklahoma as to whether or not he thinks we might be able to strengthen the thrust of his amendment in fiscal year 1981 by possibly appropriating food stamp moneys on a monthly basis. If my arithmetic is basically right, it is going to be somewhere around \$9 billion. Could we appropriate \$800 million for October and \$800 million for November, and so forth, and by that action force the Secretary of Agriculture to not exceed those expenditures? Is that possible?

Mr. BELLMON. Mr. President, the question should appropriately be put to the chairman of the Appropriations Committee who is in the Chamber.

But let me say, as the former Governor of Nebraska I am sure Senator Exon will perhaps recall at the State level, and I know this was true in Oklahoma, that we made our funds available quarterly, that there was no way a department could spend all its money in the first half or three-fourths of the year. If we gave an agency a certain amount of money they had to spend it in an orderly fashion so they would not run out.

I wonder why we do not do that here at the Federal level. I believe the Senator raises a very good point. It certainly deserves looking into.

I am not sure we can appropriate so much per month. Perhaps the distinguished chairman of the Appropriations Committee could respond to the question of the Senator from Nebraska.

Is there a way of appropriating money, making it available on a monthly basis or quarterly basis?

We give the agencies the lump sum and they spend it out at any rate they see fit, apparently.

Mr. MAGNUSON. We could appropriate a certain portion of the money and then we could wait and see, which we sometimes do, whether they need it or not. But we felt it was imperative to take care of fiscal year 1980 now. In 1981 we can change the food stamp program as Congress wishes through the authorization process.

Mr. BELLMON. Mr. President, I suggest to the Senator from Nebraska that we could work together to try to get something ready for the appropriate time.

Mr. EXON. I thank my friend from Oklahoma.

Mr. HOLLINGS. Mr. President, if the Senator will yield to me a minute, we are ready to vote, I think.

Mr. BELLMON. Mr. President, I am ready to yield back my time.

Mr. HOLLINGS. Mr. President, I wonder if the Senator from Oklahoma could amend his amendment, deleting that little phrase "it is the sense of Congress," and provide "no further appropriations shall be made."

And I ask unanimous consent that I be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. The amendment is not now pending.

Mr. HOLLINGS. I know that.

Mr. BELLMON. But I had made such a change.

Mr. HOLLINGS. Good.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield back his time?

Mr. BELLMON. I am ready to yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion of the Senator from South Carolina to waive section 311 of the Budget Act.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Nevada (Mr. CANNON), the Senator from New Jersey (Mr. BRADLEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL), is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. HUMPHREY), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER (Mr. NUNN). Are there any Senators who have not voted who wish to vote?

The result was announced—yeas 71, nays 17, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—71

Baker	Ford	Nelson
Baucus	Glenn	Nunn
Bayh	Gravel	Packwood
Bellmon	Hart	Percy
Bentsen	Hatfield	Pressler
Biden	Heflin	Pryor
Boren	Heinz	Randolph
Bumpers	Hollings	Riegle
Burdick	Huddleston	Roth
Byrd, Robert C.	Jackson	Sarbanes
Chafee	Javits	Sasser
Chiles	Jepsen	Schmitt
Church	Johnston	Schweiker
Cochran	Kassebaum	Stafford
Cohen	Leahy	Stevens
Culver	Levin	Stevenson
Danforth	Long	Stewart
DeConcini	Magnuson	Stone
Dole	Mathias	Talmadge
Domenici	Matsunaga	Tsongas
Durenberger	McGovern	Warner
Durkin	Melcher	Young
Eagleton	Metzenbaum	Zorinsky
Exon	Moynihan	

NAYS—17

Armstrong	Hatch	Proxmire
Boschwitz	Havakawa	Simpson
Byrd,	Helms	Stennis
Harry F., Jr.	Lavalt	Thurmond
Garn	Lugar	Tower
Goldwater	McClure	Wallop

NOT VOTING—11

Bradley	Inouye	Ribicoff
Cannon	Kennedy	Weicker
Cranston	Morgan	Williams
Humphrey	Pell	

So Mr. HOLLINGS' motion to waive section 311 of the Budget Act was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BENTSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FOOD STAMP URGENT APPROPRIATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 750, House Joint Resolution 545.

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 545) making an urgent appropriation for the food stamp program for the fiscal year ending September 30, 1980, for the Department of Agriculture.

The Senate proceeded to consider the resolution which had been reported from the Committee on Appropriations with amendments as follows:

On page 2, line 4, strike "\$2,556,174,000" and insert "\$3,002,400,000";

On page 2, line 11, after "operations" insert a colon and the following:

Provided further, That funds appropriated herein shall not be available to pay for any increases in benefits due to the July 1, 1980, adjustment in the cost of the Thrifty Food Plan pursuant to section 3(o) of the Food Stamp Act or the standard deduction pursuant to section 5(e) of the Food Stamp Act: *Provided further*, That the Department of Agriculture is directed to study the effects of regulations which would limit benefits to participants in the food stamp program based upon value of the participants' assets, shall recommend an appropriate level of asset value which would deny or reduce benefits to a participant and analyze the impacts of such a restriction. Appropriate exemptions to this restriction should be considered. The Department is to analyze the administrative burden which this will impose upon the States. The Department is to report to Congress its findings in this matter not later than September 1, 1980.

The PRESIDING OFFICER. Time is limited on this measure.

Who yields time?

Mr. EAGLETON. Mr. President, I yield myself such time as I may consume.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the joint resolution, as thus amended, be regarded for the purposes of amendment as original text, provided that no point of order shall be waived by reason of the agreement to this request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Missouri (Mr. EAGLETON) for his courtesy in yielding.

Mr. President, I ask unanimous consent, having cleared this request with the minority leader, with the distinguished

Senator from Missouri, with Mr. BELLMON, Mr. YOUNG, Mr. HELMS, Mr. McCURE, and others, that time on the bill be reduced to 1 hour, to be equally divided in accordance with the usual form, and the time on any amendment, with the exception of the amendments by Mr. McCURE, be one-half hour, equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators and I thank the distinguished Senator from Missouri.

Mr. McCURE. Mr. President, will the Senator yield for an explanation to the last unanimous-consent request? While I did not agree to reduce the time on my amendments, I do not expect to use all the time on the amendments. I think Members might take that into consideration.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

Mr. BAKER. Mr. President, will the majority leader yield to me for a brief moment?

Mr. ROBERT C. BYRD. Yes, if the Senator from Missouri will yield.

Mr. EAGLETON. Yes.

Mr. BAKER. Mr. President, now that we have a reduced time for most of the items to be considered in this connection, could I inquire if it is the majority leader's intention to try to finish this measure tonight?

Mr. ROBERT C. BYRD. Yes, it is, for these reasons: One, tomorrow morning there will be a cloture vote on the cloturing bill. Assuming that that cloture vote carries—and I hope it will—then the Senate would have to complete action on that measure. The measure before the Senate now in the supplemental appropriations bill would probably have to go to conference. In order to complete action on the supplemental appropriations bill by the close of business tomorrow evening, it is necessary that action on the bill itself be completed today so that it can go to conference, so that the conference report can come back tomorrow afternoon, and the Senate can dispose of the conference report on the supplemental without having to have further action on that matter on a Friday.

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, may I ask Mr. McCURE how many rollcall votes he would anticipate on his amendments?

Mr. McCURE. Mr. President, I would say three.

Would it be in order to request those now by unanimous consent?

Mr. ROBERT C. BYRD. By unanimous consent, if the Senate wishes that it be in order.

Mr. McCURE. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on three amendments which I will offer.

Mr. ROBERT C. BYRD. With one show of seconds?

Mr. McCURE. With one show of seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCURE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, does Mr. HELMS expect a rollcall vote on his amendment?

Mr. HELMS. Mr. President, I do not even propose to call up an amendment.

Mr. BELLMON. Mr. President, I would.

Mr. ROBERT C. BYRD. Mr. President, Mr. BELLMON would expect a rollcall vote on his amendment.

Are there any other Senators who plan to have amendments or rollcall votes?

Mr. President, it appears there are going to be four rollcall votes on amendments plus, I assume, a rollcall vote on final passage. This means that the Senate is going to be in for a while this evening.

I thank the Senator from Missouri for yielding.

Mr. EAGLETON. Mr. President, the Congress is within 36 hours of a critical point in food stamp funding in this country. Should we fail to act in that time to provide more funds, Secretary of Agriculture Bergland is required by law to notify States that they must cut off all food stamp issuances on June 1, 1980. That is why this urgent supplemental funding measure is being considered today.

As reported by the Appropriations Committee, the bill provides \$3,002,400,000, or \$446 million more than the House-passed version. I believe that this is a far more realistic estimate of the funding that will be needed to carry the program through this fiscal year without cutting benefits. Naturally in a program like food stamps, where each 1 percent increase in unemployment raises costs by \$300 million, it is impossible to be certain that even \$3 billion is enough. As the recession gets worse and unemployment moves up from last month's 7 percent figure, there is always the possibility of a greater funding need. But, at this time, based on the Congressional Budget Office projections of participation and unemployment, and revised Department of Agriculture in-house estimates of funding requirements, it appears that the \$3 billion will be enough.

Besides the funds in the bill, there are two other amendments. One would prohibit increases in the thrifty food plan and standard deductions that would otherwise occur on July 1, 1980. This is similar to a proposal made by the President that was agreed to by the conferees on S. 1309, the food stamp authorization bill. We included this proviso to insure that the estimated savings of some \$130 million in fiscal year 1980 would, in fact, be made no matter what ultimately happens to S. 1309.

Finally, the bill includes a proviso requiring the Department of Agriculture to study limiting benefits to participants in the program based on the value of their assets. Under present regulations, income-producing assets, such as those used in a trade or profession are not

counted, but the income produced is considered in determining eligibility. There was some concern that certain individuals, such as farmers, who had substantial assets but very little income in a given year could qualify for food stamps and that this matter should be studied. A report is required by September 1, 1980.

Mr. President, I urge my colleagues to take speedy action on this bill so that we can complete conference and get it on the President's desk before the end of the day tomorrow.

Mr. President, I reserve the remainder of my time.

Mr. SCHMITT. Will the Senator yield?

Mr. EAGLETON. I yield.

Mr. SCHMITT. Mr. President, I will be very brief. I think it is important to point out that the significance of this second amendment that was mentioned by the distinguished Senator from Missouri is it is one which would require the Department of Agriculture to conduct an expedited study, which I understand from conversations with the Department of Agriculture will be part of a larger study that they are required to complete by the first of next year, a study that would look at the effects of regulations, which would limit benefits to participants in the food stamp program based upon the value of the participant's assets.

This amendment resulted from a compromise between the Senator from Arizona (Mr. DeCONCINI) and myself, based on an amendment originally offered by the distinguished Senator from North Dakota (Mr. Young).

It was my feeling in the committee that, although an important concept, it would require more information than we had available to us at that time to determine just how that concept should be framed, so that those who had great need for food stamps but might otherwise be hurt by precipitous action would not be so hurt.

At this time I want to thank all concerned, including the distinguished Senator from Missouri, for their cooperation in seeing that we reached this compromise yesterday and did what I think will provide a much more responsible base for legislation than we had available to us yesterday.

Mr. EAGLETON. I thank the Senator from New Mexico. He is precisely correct. There is a larger, ongoing major assets study in the Department of Agriculture which deals with the broader subject matter, but which, in essence, would include this issue as embodied in the amendment agreed to by the Appropriations Committee. Under the terms of that amendment, a report shall be made by September 1, 1980. The larger, ongoing study will be made available to the Congress in 1981.

Mr. President, I reserve the remainder of my time.

Mr. BELLMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I rise in support of the supplemental appropriations for the food stamp program. I regret that this is necessary, but when one

reviews the record of what happened with the food stamp appropriation when we were dealing with the 1980 appropriation bill, it was evident at that time that we were going to be called upon to pass a supplemental.

The PRESIDING OFFICER. Who yields time?

Mr. BELLMON. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator has no time.

Mr. YOUNG. I yield all of my time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BELLMON. As I was saying, when we were dealing with the 1980 appropriations we realized that a supplemental would be required because at that time the authorization limit was \$6.2 billion, and it was plain that we would need to provide supplemental funds.

At that time, the budget resolution included a limit of \$8.1 billion, so we were somewhat more realistic. There has never been any question that there would need to be a supplemental, although the amount of supplemental is somewhat of a surprise and a disappointment.

This bill contains a supplemental of \$3,002,000,000 for the food stamp program. It will allow a total program level of \$9.2 billion for fiscal year 1980. The level recommended by the committee is \$344 million more than that requested by the President, and \$446 million more than the amount approved by the House.

So it is obvious there will be some negotiation when the conferees between the House and the Senate meet.

The basis for the committee action was a recent Congressional Budget Office reestimate of the program cost. It does not reflect the legislative savings contained in the conference approved version of S. 1309 which the Senate has just this afternoon adopted.

This means that there is room to accommodate inflation and cost increases of at least \$150 million.

Mr. President, as I say, I support the supplemental. I feel it is inevitable. But I have an amendment to offer which will make certain that this is the final supplemental that is available for the food stamp program this year.

UP AMENDMENT NO. 1096

(Purpose: To express the sense of the Congress that no further supplemental appropriations will be provided the food stamp program in fiscal year 1980 and directing the Secretary of Agriculture to prepare cost-saving procedures as authorized in section 18 of the Food Stamp Act of 1977)

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) for himself, Mr. EXON, Mr. HOLLINGS, and Mr. STEVENS, proposes an unprinted amendment numbered 1096.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 2, before the period, insert the following:

"Provided further, That no further appropriations will be made for the food stamp program in fiscal year 1980. The sum provided herein substantially exceeds previous estimates of program needs and fully utilizes projections of budget authority and outlays remaining within the Congressional budget ceiling for this purpose. The Secretary of Agriculture is therefore directed to utilize those procedures authorized in section 18 of the Food Stamp Act of 1977, as amended, to assure that program costs do not exceed available funds and to avoid unnecessary disruptions or substantial reductions in benefits under the program."

Mr. BELLMON. Mr. President, this amendment is, in effect, the Lugar amendment, strengthened and applied to the language of the supplemental appropriation bill.

Mr. President, my amendment merely declares that the \$3 billion supplemental provided in House Joint Resolution 545 is all that can be provided in this fiscal year. It would make clear to the Secretary of Agriculture that he must administer the food stamp program in a manner which holds costs to levels within the sums appropriated.

This is nothing more than a reaffirmation of already enacted provisions of the Food Stamp Act which sets forth an orderly procedure of benefit reductions should available funds appear inadequate to meet program demand.

As I said earlier, there was no way the Department could have run the program with the funds available before this supplemental was passed. The reason was that the authorization was at such a low level that it was impossible to run the program. I am not being critical of the Department for what has happened in the past; I am only trying to look to the future.

Mr. President, it may be appropriate that I also state what this amendment will not do.

It does not require immediate benefit reductions. The \$3 billion provided in this bill allows for a total fiscal year 1980 food stamp program of \$9.2 billion. This exceeds all current estimates of what the program will cost this year. It is \$344 million more than the administration is requesting. It is \$446 million more than what the House has approved. It is even higher than the recent Congressional Budget Office estimate. If, and only if, program demands exceed this generous appropriation will the Secretary be called on to reduce benefits.

The amendment will not result in program interruption or drastic benefit reductions. On the contrary, the amendment is designed to avoid such disruptive actions. Presently, the Secretary of Agriculture has little choice but to operate the program at full benefit levels until all funding is exhausted.

And then, of course, he would be out of money and the benefits would abruptly be shut off. That is the situation we are confronting now unless the supplemental appropriation is passed in a timely manner.

Unless Congress provides the funds requested, program participants will have to do without for the rest of the year. My amendment is designed to avoid another crisis like this in August or September.

Too many Americans depend on food stamps for an adequate diet to tolerate a 50-percent reduction in benefits or outright denial for any length of time.

Congress enacted section 18 of the Food Stamp Act to enable the Secretary to take less drastic action in holding monthly benefits down so as to avoid completely running out of funds before the end of the fiscal year. My amendment directs the Secretary of Agriculture to utilize these procedures before a funding shortfall reaches a crisis situation.

Mr. President, as I have stated before, the \$3 billion provided in this bill is a very generous amount. It exceeds our current estimates of program needs, and it also exceeds all available room under both the House and Senate versions of the budget resolution for this fiscal year.

The simple fact is that there is no more room for still further increases for the food stamp program, nor any other program not assumed in the resolution. In fact, the budget committees are meeting now on the reconciliation instructions to find further savings in the fiscal year 1980 budget. Unless we take this very modest step of holding down runaway spending, there can be no hope of ever balancing the Federal budget.

Congress has already taken the initiative in providing procedures to making the food stamp program "controllable" under the budget. This amendment simply reaffirms those provisions. I urge its adoption.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, will my colleague yield for a few quick questions on my time?

Mr. BELLMON. I am very happy to yield.

Mr. EAGLETON. What is the Senator's assumption as to what the unemployment rate will be in the United States during the third quarter of calendar 1980, which is the final quarter of fiscal year 1980—specifically, the months of July, August, and September of 1980?

Mr. BELLMON. Mr. President, in the work we have been doing on the budget resolution for fiscal year 1981, we are assuming an average for the next fiscal year of 7.5 percent. The unemployment figures are irregular nationwide. They are high in the area where the automobile industry is in trouble; in the area of Oklahoma that I know about, the unemployment figure is still very modest.

But that is not quite the point here. When we are in a time of economic distress, as the country now faces, with inflation running at a very high level, it is unrealistic to expect programs like this to be held absolutely free of any interruption.

If the country is going through an

economic bind, then it seems to me that the pain should more or less be felt, to some degree, by all parts of the economy and not have some people lose their jobs and have a dramatic reduction in income and others who are on Government food stamps or other welfare-type programs go on as if nothing has happened.

Mr. EAGLETON. Is the Senator aware that the \$3 billion figure contained in this special supplemental appropriation is predicated on the unemployment rate during the months of July, August, and September averaging 7.3 percent?

Mr. BELLMON. I am aware that the figure we have put in the budget is more than has been estimated to be needed by the Congressional Budget Office and, also, that it does not count the \$150 million of anticipated savings under S. 1309, which we just passed this afternoon. I think that would more than make up for the additional two-tenths of a percent in unemployment.

Mr. EAGLETON. Would the Senator agree with the estimate of the Department of Agriculture that if unemployment during July, August, and September were to go as high as 8.5 percent, then \$3.3 billion then would be needed to finance the remainder of this fiscal year?

Mr. BELLMON. Mr. President, let me say to my friend from Missouri that there is available now \$3 billion. If you add to that the \$150 million of anticipated savings under S. 1309 and also take into account that we are making available more than has been requested and more than has been estimated, I would feel comfortable that we could handle program costs if it got to that level without any serious disruption. There might be some minor disruption, but it would not be unduly painful on any recipient.

Mr. EAGLETON. Would the Senator feel any differently about his amendment now pending before us if, on a subsequent amendment by some other Senator, the amount of this bill were reduced from the \$3 billion figure to some lower figures such as, say, \$2.556 billion?

Mr. BELLMON. Yes, I certainly would. There is a limit to how far this can go. But I feel that at this point, we have been quite generous with the food stamp program.

My problem is that the Department seems to me to feel that it can spend as much money as it cares to spend without any restraint and come to the Senate or come to the Congress and expect us to literally give them the key to the Treasury. Somehow, we have to get some discipline into this process and that is the intent of this amendment.

Mr. EAGLETON. Mr. President, the Senator knows that once this bill passes, we shall have to go to conference with the House.

Mr. BELLMON. I am aware of that, yes.

Mr. EAGLETON. The House figure is \$2,556,174,000. Let us assume, for the sake of argument, that the Senate figure prevails in this body. We undoubtedly shall have to strike some compromise with the House. Seldom is it the case that the other body will take, in toto, our

figure. How much reduction in the \$3 billion figure is the Senator from Oklahoma willing to accept, realizing the somewhat Draconian nature of his own amendment? That is, he said he would be concerned if the figure went down as low as \$2,556,174,000. Would he be concerned if we got down to \$2.9 billion or \$2.8 billion? Where would his level of concern be the most acute?

Mr. BELLMON. Mr. President, in the Committee on Appropriations, as the Senator from Missouri will remember, the Senator from Oklahoma voted for the \$3 billion figure. I feel that is a realistic figure. I also expect that the conferees will agree to a figure very close to that amount. Particularly they will agree to it if we have the amendment which I propose as a part of the bill, because at that point, the House conferees will realize that this is all the money that the food stamp program is going to get. Therefore, I believe that they will look at the level of appropriations in a far more realistic way than they will if they feel that they can set a low number and then, later on, provide a supplemental.

It seems to me that is the game we are playing around here, that we set a figure that is unrealistically low and then force the Department to come back later for supplementals. In the meantime, they run the program without exercising the kind of restraint that I believe Congress is entitled to expect.

Mr. EAGLETON. An additional question: The Senator does realize that if the unemployment figures, which were at 7 percent in April, up from 6.2 in March, were to increase in May to as high as 7.4 percent, the Secretary would be required, under section 18 of the Food Stamp Act, as well as the Bellmon amendment today, to direct reductions in the month of June in food stamp benefits. Does the Senator recognize that as a natural consequence of his amendment, coupled with section 18?

Mr. BELLMON. Mr. President, if the Secretary of Agriculture accomplishes the savings anticipated when the Senate passed S. 1309, he would have \$150 million, or at least a proportionate share of that, available with which he could adjust the income expectations from this appropriations bill, because that bill did anticipate saving \$150 million. So there is a little flexibility here.

The Senator from Oklahoma would not be distressed if there were a requirement for the Secretary to begin to adjust the benefits to the higher income individuals who are now eligible for food stamps, as is required by the so-called Lugar amendment. To me, that is not a Draconian move, to begin to reduce modestly the food stamps available to people in the higher income brackets who are now getting food stamps.

So I agree that this could happen. That is the reason for the amendment.

Mr. EAGLETON. One final question. If unemployment in July or August reached 8 percent or better, could the Senator not conceive of a set of circumstances which would compel us to process yet another urgent supplemental? Would not that urgent supplemental as

a matter of law take precedence over the Senator's amendment if a majority of both the House and Senate saw fit to proceed in that manner?

Mr. BELLMON. The Senator is correct. The action the Congress takes today can certainly be overturned by the Congress any time it chooses.

On the other hand, having this amendment in the language of the supplemental will, I believe, cause the Secretary to operate the program in a far more responsible way than might be the case if he felt he could spend it all by the first of August and expect us to get him another billion or half a billion.

So I think this would have a very salutary effect on the way the program is run.

Mr. McGOVERN. Will the Senator yield?

Mr. BELLMON. How much time remains?

Mr. EAGLETON. I will yield 5 minutes to the distinguished Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. McGOVERN. Mr. President, the trouble with the amendment proposed by the distinguished Senator from Oklahoma is that it forces the Secretary of Agriculture, in the event the economy continues to worsen through the balance of this year, to take what amounts to punitive actions against the most vulnerable people in our society.

I know the Senator from Oklahoma talks in terms of tightening up the program and making it operate more efficiently. Those are fine sounding words until we translate them into human terms.

What it means, in effect, is that we can do one of two things. We can cut the benefits of everyone participating in the food stamp program who, for the most part, are poor working people, or elderly people who have reached the time in life when they are no longer capable of earning the income they might have had at an earlier age. We are cutting out many of the people who have recently come into the program from small rural communities across the country.

We have had some 3 million new people come into the food stamp program recently, partly because of the elimination of the purchase requirement that had kept a lot of poor people out of the program in the past.

Twenty-five percent of those new participants in the food stamp program came from small rural communities, all across the country, where participation increased 42 percent.

Participation by the elderly increased by 32 percent of the older people who heretofore were unable to scrape together the amount of money required for the purchase price.

Now, all of these people are subject to cutbacks in what is already a very meager food stamp allowance.

As the Senator from Oklahoma knows, the so-called thrifty food plan, under which the Department of Agriculture operates this program, does not provide the kind of diets that Senators have. It

does not provide the kind of diets that comfortable middle class and upper middle income families have.

It is what it says. It is a thrifty diet, and that is a polite word for a very lean, meager fare that the poor people of this country receive, a diet that generally does not meet minimum nutritional standards. It is as little as this country can do and hold up its head in the world as a responsible society.

I think it would be unconscionable for this country, heading into what many of our economists tell us is a rising unemployment level, and what others have predicted as a rising cost of living, to tell the Secretary of Agriculture that, no matter what happens in the balance of this year, and none of us knows what will happen either now or after Congress adjourns, that no matter what happens, he has to operate the food stamp program with the money we authorize this week, for the balance of this fiscal year.

Mr. President, it may very well be that the money we are providing here this afternoon and also the balance of this week will be enough to see us through the end of the fiscal year. That is the projection of the CBO. But, as the Senator from Missouri (Mr. EAGLETON) pointed out, that is based on unemployment projections that many people think are too low in terms of where we will be this summer and throughout the fall.

Mr. President, why are we singling out the food stamp program for this kind of instruction? We do not say to any other agency of the Government that if they do not have enough money in this appropriation, they have to take steps to cut back the services in the department. We do not say that to the Defense Department. We do not say that on an individual contract where, repeatedly, cost overruns have made it necessary for us to come back and provide additional funding.

In a very real sense, the health and nutrition of the American people is an important part of our defense. If we have 21 million or 22 million Americans already subsisting on meager diets, if we are in a situation where some 21 million Americans have their benefits curtailed this summer or this fall, I think it presents a dismal specter to our own people and to the rest of the world.

As I said in remarks earlier today, Mr. President, this is a commonsense program. It is a humanitarian program in the sense it meets the needs of the hungry and the poor, those who are working poor, those who are too old to work, dependent children, the most vulnerable citizens in our society.

But beyond that, this is a program that benefits every farm producer in this country. There is not a farmer who is not benefiting in some way from this constructive outlet of food, and this food is not wasted. It is going into the stomachs of hungry men and women, boys and girls, across this country.

So I hope this amendment will be defeated, that we will leave ourselves the flexibility we do in all other Government programs where, if our estimates are wrong and a supplemental appropriation is necessary, we have the authority to do that, without putting the Secretary of

Agriculture through the confusion that would result in being forced to put through cuts in this program.

We have made a commitment here in the Senate repeatedly in recent years that we will not permit any American to go hungry. This would be a departure from that rule, from that precedent, if we were to agree to this amendment today.

I hope the amendment will be defeated.

Mr. BELLMON. Mr. President, I will respond briefly and then yield to the Senator from Idaho.

Mr. President, the figures on the growth of this program are absolutely astounding. When we look at it, going back as far as 1975, which is only 5 years ago, the cost of the program was \$4.7 billion. If this supplemental passes, the cost for fiscal year 1980 will be \$9.2 billion.

Then, when you look at the number of people involved, if you go back to 1970, 4.3 million Americans were involved. The CBO estimate for 1980 is 21.2 million. When you carry the estimate on to 1981, the estimate is 23,079,000.

Mr. President, I submit that this program has grown so rapidly that it is fairly obvious that some of these folks who got on the program were managing to get by before they were made eligible for food stamps. Obviously, they could stand a modest reduction, if benefits had to be reduced slightly for a brief period of time toward the end of the fiscal year.

To me, this is the only way we ever are going to get any kind of control over spending for food stamps.

As it stands now, the Secretary of Agriculture feels, and I think probably accurately, that he has a blank check; that he can spend as much money as he wants; that he can threaten Congress with running out of money and with totally cutting off food stamp benefits, knowing that we will give him whatever he asks for to keep the program going.

The purpose of this amendment is to say to him, "This is all the money available. Run the programs with this very generous appropriation. But if the program somehow exceeds this sum, make the needed adjustment and do not come back and tell us you have run out and that these people will have to go hungry for 2 or 3 months. We are saying that you can spend this much money in an orderly way for the balance of this year, and in this way, you can meet the legitimate needs of your participants."

I do not look at it as a draconian measure. It is an orderly way to look after the taxpayers' money.

Mr. MCCLURE. Mr. President, will the Senator from Oklahoma yield to me?

Mr. BELLMON. How much time does the Senator require?

Mr. MCCLURE. Two minutes.

Mr. BELLMON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 5 minutes and 10 seconds remaining.

Mr. BELLMON. I yield to the Senator from Idaho.

Mr. MCCLURE. I thank the Senator for yielding.

Mr. President, I will reserve the major portion of my discussion of savings that might be made for the time when I discuss the amendment I will offer.

I respond to the Senator, who has indicated that it is impossible for us to reduce the food stamps without depriving the needy, the poor, the deprived, the young, the elderly, and the disabled of food stamps, by indicating that there was a GAO report in 1975, a GAO report in 1977, and the House Agriculture Committee has issued two different reports—all of which have indicated savings that can be made without taking food stamps away from the truly needy.

I will be offering an amendment that deals with just one. If all we do is eliminate the mistakes in issuance during the remainder of 1980—in June, July, August, and September of fiscal year 1980—we will save \$200 million; because those errors, by USDA's own admission, are running at the rate of \$600 million a year.

So let us not be deceived into believing that no savings could be made without depriving people of what they should have and what they need to have and what the Senator from Idaho wants them to have if, as a matter of fact, they are truly needy.

I believe the Senator from Oklahoma is exactly correct. He is not going to hurt anybody by the adoption of this amendment. He might even get the Secretary of Agriculture to do what Congress told him to do last year, and which he has refused to do until this time.

Somebody has said, "How in the world do you get the Secretary of Agriculture to do what Congress tells him to do?" Maybe you start bouncing some of them out of office. Maybe you start by requiring that salaries be withheld when they fail to follow the law.

I support the amendment of the Senator from Oklahoma.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EAGLETON. Mr. President, I move to table the Bellmon amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield back the remainder of his time?

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? All time is yielded back.

Mr. EAGLETON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Oklahoma. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the

Senator from Connecticut (Mr. RIBICOFF), the Senator from New Jersey (Mr. WILLIAMS), the Senator from North Carolina (Mr. MORGAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. HUMPHREY) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 26, nays 61, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—26

Bayh	Jackson	Metzenbaum
Burdick	Javits	Nelson
Chiles	Leahy	Randolph
Culver	Levin	Riegle
Danforth	Long	Sarbanes
Durkin	Mathias	Stevenson
Eagleton	Matsunaga	Stone
Gravel	McGovern	Talmadge
Huddleston	Melcher	

NAYS—61

Armstrong	Ford	Packwood
Baker	Garn	Percy
Baucus	Glenn	Pressler
Bellmon	Goldwater	Proxmire
Bentsen	Hart	Pryor
Biden	Hatch	Roth
Boren	Hatfield	Sasser
Boschwitz	Hayakawa	Schmitt
Bumpers	Hefflin	Schweiker
Byrd	Heinz	Simpson
Harry F., Jr.	Helms	Stafford
Byrd, Robert C.	Hollings	Stevens
Chafee	Jepsen	Stewart
Church	Johnston	Thurmond
Cochran	Kassebaum	Tower
Cohen	Laxalt	Tsongas
DeConcini	Lugar	Wallop
Dole	Magnuson	Warner
Domenici	McClure	Young
Durenberger	Moynihan	Zorinsky
Exon	Nunn	

NOT VOTING—12

Bradley	Inouye	Ribicoff
Cannon	Kennedy	Stennis
Cranston	Morgan	Weicker
Humphrey	Pell	Williams

So the motion to lay on the table Mr. BELLMON's amendment (UP No. 1096) was rejected.

Mr. BELLMON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the yeas and nays be vitiated on this amendment.

The PRESIDING OFFICER (Mr. MELCHER). Is there objection?

Mr. EAGLETON. Mr. President, reserving the right to object, may I have 1 minute on the bill? Mr. President, obviously the Bellmon amendment will pass. I was not going to put the Senate through the torture of yet another rollcall vote on the amendment that obviously is going to pass, but I am going to ask Senator BELLMON if he would set this amendment aside.

If, in subsequent action, the Senate reduces the amount in this bill, and there is at least one cut amendment contemplated, then I would like to address some remarks on the effect the Bellmon

amendment would have in light of a cut made in this bill, and would ask under those circumstances for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request at this point.

The PRESIDING OFFICER. The request is withdrawn.

Mr. EAGLETON. Mr. President, I am really asking my colleague, Senator BELLMON, if he would be willing to temporarily set aside this amendment.

Mr. BELLMON. Mr. President, I can understand the concern of the Senator from Missouri. It is my hope that the effect of this amendment will make us be responsible in setting a figure for food stamps and then making the Secretary responsible and making him live within that figure.

I am perfectly agreeable to setting the amendment aside until we have dealt with the other so-called cutting amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. BELLMON. I yield.

Mr. ROBERT C. BYRD. I ask unanimous consent—this request has been cleared with Mr. McCURE—that on the three amendments by Mr. McCURE that they be debated and voted on back to back, with a 15-minute rollcall vote on the first one, and 10-minute rollcall votes on the two remaining amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1097

(Purpose: To reform the food stamp eligibility requirements by placing a limitation on assets which beneficiaries can hold. Removes language merely directing a study of this issue)

Mr. BELLMON. Mr. President, I have an amendment at the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 1097.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 17, strike out all following the colon and insert the following: "Provided further, That none of the funds appropriated in this Act may be used to provide benefits to participants whose equity in assets, exclusive of the value of the participants' principal residence, exceed \$75,000."

Mr. BELLMON. Mr. President, this amendment by the Senator from North Dakota, Senator YOUNG, which was discussed yesterday in the Appropriations Committee, but which is not a part of the bill, sets an asset limitation for recipients of food stamps at \$75,000. There is some objection to the amendment, but my reason for calling it up at this time is to make it plain to the Members of the Sen-

ate and also, hopefully, the Secretary of Agriculture that this amendment will be offered when we deal with the 1981 appropriation bill, and in that way overcome the objection. The objection to the amendment now is that there is not time to draw up the regulations in an orderly way and, therefore, it would cause considerable difficulty in administering the food stamp program, and that certainly is not the intent of the Senator from North Dakota and the Senator from Oklahoma.

So I call up the amendment to emphasize that the matter will be brought up when we deal with the 1981 appropriations bill so that Members, as well as the Secretary, will be on notice.

Having made those remarks, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Who yields time?

Mr. BELLMON. Mr. President, I suggest the absence of a quorum, with the time to be charged to neither side.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1098

Mr. McCURE. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCURE), for himself and Mr. JEPSEN, proposes an unprinted amendment numbered 1098:

On page 2, line 4 strike the number "\$3,002,400,000", and insert the number "\$2,802,400,000" in lieu thereof

Mr. McCURE. Mr. President, I might just inform Members that I have three amendments that were part of a series of amendments which I had prepared, but I will offer only these three.

The first one, which has been stated by the clerk, deals with a reduction in the total amount under the supplemental appropriation. The second one deals with eligibility of recipients and the third one deals with the amount of food stamps that an eligible household would be eligible to receive.

This first one, as you will note from the figures reported, reduces the amount by \$200 million.

Mr. President, I think it is informative for us to look not only at the reason why I have come up with that figure, but also at some of the background as to what it might do to this program.

First of all, the reason that I chose \$200 million is that that is just the amount that USDA admits being paid to ineligible persons or overissues. According to the USDA figures, they admit overpayments or mis-issues, but at the amount of \$600 million a year. And for the balance of 1980, for the 4 months, that would amount to \$200 million.

So my amendment would simply supplement what the Senator from Oklahoma has already put in the motion, I think, by his amendment, suggesting that the Secretary of Agriculture be instructed to tighten up this program so he does not run out of money.

My amendment simply suggests that the USDA do what they already know they are misdoing and eliminate the issuance of stamps to people that are not eligible to receive it or the overpayments to people who are eligible to receive but have been given excess amounts of food stamps.

Mr. President, I am always amazed when I come in here and talk about food stamps and I find people saying there is nothing we can do to tighten up the program, because the GAO report in 1975 identified hundreds of millions of dollars of saving that could be made.

That study was followed by a FAO report in 1977 which, again, identified hundreds of millions of dollars that could be saved in the food stamp program without touching one person who is truly in need and that is not getting more than they are entitled to get under the basic premise of this program.

The amendment that I have offered will not strike at the poor. It will not strike at those truly in need. It will not strike at those who are entitled to receive food stamps. It will simply say to the Department of Agriculture: "Eliminate one phase, one phase of mistakes—not all mistakes, not all overpayments, not all fraud, just one part of it—and save \$200 million."

The GAO report, if I recall correctly, identified over a billion dollars of such fraudulent or mistaken payments in 1977.

I did not ask to strike \$1 billion or even one-third of \$1 billion. I have asked in this amendment only that we strike or reduce the amount of money that USDA itself says is the amount of overpayment.

Mr. President, it is informative to perhaps go down the list and look at a number of things that might be done, lest some think that I am dealing with a heavy hand with a program that affects the needy in this country and there is no sensitive concern or regard for their needs.

But there have been some excellent proposals over the years for reductions in this program to reform the overlenient eligibility requirements for food stamps, such as setting a ceiling of gross income or personal assets for participation, as well as to help to eliminate the fraud or abuse. I made reference earlier, in comments on the bill and on the amendment offered by the Senator from Oklahoma, of the effort made in the Appropriations Committee yesterday to at least impose some kind of an eligibility requirement.

It was at the figure, if you can imagine, of saying that no one who has over \$75,000 of assets in addition to his home should be eligible to receive food stamps.

To me that is ridiculous. Why should working men and women who rent their homes—they do not own any; they can-

not save enough money to own; young people are trying to get a start to own their own homes—be required to pay taxes to support somebody or to help support somebody who owns their own home, who can have up to \$75,000 worth of assets, and still be eligible for food stamps?

Mr. President, that limitation is not in the law. They can live in a \$1 million home and still have food stamps. They can have \$2 million worth of assets and still have food stamps. They can have any number of liquid or nonliquid assets. So long as it is not defined as income, they are not required to use the money that they have or the assets that they have before calling upon their neighbors, the other working men and women of this country, to provide food for them in their household.

Mr. President, that is ridiculous. People are telling me every time I go home to my own State of Idaho or elsewhere in this country, that the food stamp mess must be reformed. This is not the first time it has been said. If it was the first time we had called attention to the abuses in the food stamp program, I would not be so concerned. But this abuse has been growing year after year after year. Every time the bill comes before the Senate, instead of tightening the eligibility requirements, doing anything to eliminate the fraud or abuse, we enlarge the program.

Mr. President, the taxpayers of this country are getting sick and tired of that kind of action on the part of their elected representatives.

Let me give a few more examples of what we might do.

It started out with a \$33 million a year program with 1 out of 300 or 400 Americans eligible for participation. It is now approaching a program of \$10 billion a year with 1 out of 7 Americans who are eligible to receive food stamps under current criteria—1 out of every 7. As a matter of fact, 1 out of every 10 Americans is now drawing food stamps. That is not theoretical, that is fact. It is 1 out of every 10. Just look around you. Look at the number of people you see around you and start picking out every 10th person you are helping to support.

That has to be a sign of something basically and fundamentally wrong in our society and with this kind of a program.

We are not asking that a tight, lean, carefully administered welfare program be cut back. We are asking that one which has obviously grown far too fast, and which has been administered far too loosely, be tightened up.

There are many ways in which the legislative savings can be achieved. Let me look for a moment.

How about restoring the food stamp purchase requirement which was eliminated in 1977, one of those reform measures that we were supposed to enact to tighten up the program that was already being abused? We eliminated the purchase requirement. Reinstatement of that purchase requirement as it was then in the law would save \$800 million a year.

We can legislate the following savings: We could limit the eligibility to those with gross incomes at the poverty line plus a 15-percent allowance for work activities, 15 percent above the poverty line.

Establish the purchase requirements as a percentage of gross income expended for food by average households of the same size and income range with regional variations as established by the most recent Bureau of Labor Statistics consumer expenditure survey or 30 percent, whichever is less, and use the thrifty diet plan with family size, age, and sex of family members taken into account.

That package of three different actions, all of them modest, none of them hurting anyone, would reduce the expenditures under the program by \$700 million a year.

We could perhaps legislate the savings from using a food stamp assets test initially established for the supplemental security income program with a \$1,500 limit on a motor vehicle, a \$15,000 limit on property used in a trade or business essential to self-support of a household, an overall limit on liquid and nonliquid resources with the above exceptions of \$1,500 for the household or \$2,500 for households of two or more persons with a member or members aged 65 or over.

Those are not ridiculously stringent requirements, but if we adopted them, they would save \$522 million a year.

We could legislate the savings from implementing the food stamp fraud control by mandating a photo identification card, countersigned warrants, a national application cross check, and an earnings clearance system. Those have been well identified possibilities. They have been discussed and well understood by anyone. They are not at all impossible to apply. If we just did those to eliminate a portion of the fraud, we would save \$138 million a year.

Of if, as a matter of fact, we wanted to consider eligibility of a household to receive food stamps, if you would include in their income the income tax rebates that they get. Federal energy assistance and any in-kind income which provides food assistance, just those—just count their income in these three items: income tax rebates, Federal energy assistance, and in-kind income which provides food assistance—that would eliminate \$503 million from the program.

Of if we want to, we could go back to the kind of a program we apply in other welfare and say that we could restore to age 6 from age 12 the age of a child which exempts an individual from work registration and strengthen the work registration requirement by permitting States to establish community work experience programs as a condition of eligibility. That would save \$34 million a year.

In addition to that, we have already annualized in this bill by an amendment offered in the committee the cost-of-living adjustment and could save \$230 million a year. That has been adopted by

the committee, but that has not been subtracted from the \$3,200,000,000 that is being appropriated here.

If we have just included that amount that we have already legislated, this sum would be \$230 million less than it is. It is not a lean appropriation bill.

We could perhaps get these savings in the food stamp program by retaining the \$90 per month child care reduction rather than increasing it, as proposed by the Housing Committee, and retain the \$35 per month medical expense deductible rather than reduce it to a \$10 deductible as proposed. If we did those two things, we would have saved \$122 million a year. Perhaps, in eligibility, we could reduce the standard deduction from \$75 to \$50. That would save \$630 million a year.

And, finally, the one we have looked at many times around here. I am not going to offer it as an amendment, but if we eliminated from this kind of welfare eligibility full-time college students and strikers, that would save \$29 million a year.

Mr. President, these savings that I have outlined are not figments of my imagination, they are the product of study by others—not my own—and are verified by a number of sources. They could be made available in the legislation which we are considering here today, and we would be talking not about massive increases in the food stamp program, but a modest, a very modest restructuring. We could be eliminating a great deal of this \$3 billion additional raid on the Treasury.

Mr. President, there are a number of other things that I might say about the food stamp program today, but there are very few people who want to come onto the floor of the Senate or the House and say the program is not only good, but it is so good that we should not change it. Almost everyone who is familiar with the program confesses that it could be tightened up and are willing to undertake some efforts to tighten it up. They just never get around to doing it.

It is interesting, too, Mr. President, that yesterday, we voted in the Appropriations Committee for a \$3 billion figure, the next-to-the-highest figure that has been asked. The administration's January request was to increase it by \$2.556 billion. The House Appropriations level was at that administration request. The House budget resolution level is \$2.9 billion. The Senate budget resolution level request that we voted on just Monday—just Monday, the day before yesterday—was \$2.4 billion. The administration adjusted its request from January to March to adjust it upward to \$2.791 billion. The current CBO estimate, with the changes that have already been legislated in the bill that has passed this body, would adjust that figure to \$2.858 billion. But we are coming in with \$3.2 billion. The figure that I have suggested, \$2.802 billion, is above all but two of those ranges of estimates.

Mr. President, I am not asking this body to go on record as hurting people. What I am suggesting is a very, very

modest saving that could be implemented simply by eliminating the waste and error from overpayments and misissue of stamps for 4 months; that is all. All the rest of the savings I have talked about I have not even touched in this amendment.

Mr. President, I reserve the remainder of my time.

Mr. YOUNG. Mr. President, I yield myself 3 minutes on the bill.

Mr. President, this measure provides needed funds to maintain the food stamp program through the balance of this fiscal year. I note that with the \$3 billion provided here, this program will cost a total of \$9.2 billion. Over 21 million Americans currently receive food stamp benefits—this is 1 out of every 10 citizens. I understand if every eligible person applied, one out of every seven Americans could get food stamps.

One of the things I have tried to do is see that abuse is kept at a minimum. Loopholes cost taxpayers hundreds of millions of dollars in unnecessary program benefits.

I am pleased that the recent conference committee on S. 1309, the Food Stamp Act authorization bill of 1980, chose to close one loophole that I have sought action on for over a year. That bill will disallow depreciation on income-earning property as an offset toward income for food stamp eligibility.

Mr. President, it is for these same reasons that I support the amendment of the Senate Appropriations Committee to House Joint Resolution 545, which directs the Secretary of Agriculture to review the food stamp regulations with respect to participant assets. These regulations, as they are currently drafted, allow participants to hold assets of unlimited value—so long as they are classified as "income producing property". Any self-employed person can be worth millions but if he had had a bad year and low income, he is eligible for food stamps. This exemption covers tools of a trade, rental houses, real estate, motor vehicles and many other items.

I proposed that a strict limit of \$75,000 be placed on the value of such assets—exempting only the participants principal residence. The committee, in view of consideration of related issues by the authorizing committees, and studies proposed by the administration, chose to defer taking direct action on this issue at this time. Instead, the committee has recommended that a study be conducted immediately, and that its findings be reported to Congress no later than September 1, 1980.

I believe that this is a reasonable approach at this time. I would advise my colleagues that we must act to remove all abuse and waste such as I have just mentioned if we are to ask taxpayers to continue to shoulder the burden of this program.

Mr. EAGLETON. Mr. President. I rise in opposition to the McClure amendment. This is the nature of a "cutesy" amendment. The Senator from Idaho is the Shakespeare of "cutesy" amendments. He should know that fraud and abuse are not a line item in the Federal budget. If

it were, it would be a simple and a very compelling thing to go through every department of the Federal Government and strike fraud, waste, and abuse, from the budget. The world would be a happy, cleaner, and better place if that were possible.

No one condones fraud, waste, and abuse; no one likes it; no one encourages it. When we find it in the Department of Defense budget, it is just as evil there as it is in the Department of Agriculture budget, or the Department of HEW, or the Department of Transportation, or any of the several departments of government.

When we have a big weapons system up for consideration, whether it is one in the future such as the MX or one in the past such as the C-5A, I do not recall any Senator getting up and saying, "Well, it is in the track record of Defense Department programs dealing with defense contractors that there is a lot of kinky business that goes on."

"A lot of money changes hands. They take important public officials to hunting lodges out on the Eastern Shore. They wine and dine officials. They even spread around a little money overseas, bribing foreign potentates and what have you. And since we know that they engage in these nefarious and evil deals, we shall cut x million dollars out of this particular weapons system to take care of fraud, waste, and abuse."

Would that it were that simple, Mr. President. This program now reaches some 21 million people, the vast bulk of whom are people in the depths of poverty; young people, elderly people, who rely on this program as the basic mechanism by which they stay alive.

Now, out of that 21 million people, are there some who abuse it, rip it off, cheat, or violate the law?

I dare say, "Yes."

I used to be a prosecuting attorney. That was my first official job. Later, I was attorney general of my State. Part of my duty was to prosecute those who stole or cheated or ripped-off programs, in a criminal sense.

I would prosecute today those who would rip off and cheat and abuse this program.

If it were so simple as to just offer a cut of \$200 million and thereby believe one had reached only the cheaters and only the rip-off artists, then this amendment would pass by unanimous acclamation.

The Senator from Idaho well knows that despite what he purports to be the thrust of his amendment, that the \$200 million cut will not be targeted in only on the cheaters and the abusers. It is an across-the-board cut that will be borne in terms of the entire program.

If we were not entering a recession, perhaps his amendment would not be as mischievous as I deem it to be.

But here we are in the early stages of a recession, where unemployment rose in one calendar month from 6.2 percent to 7.0 percent, where the expectation of most economists is that it will go considerably higher in the ensuing summer months. In the face of that the Senator

from Idaho is going to slash \$200 million from this program, under the guise of curing fraud and waste. The actual result of his amendment, however, will be that all recipients under this program will have their benefits curtailed.

Come about mid-June, no later than maybe early July, at the funding level suggested by the Senator from Idaho, the Secretary is likely to be compelled to make cuts in the payments to the recipients of this program. He will be doubly compelled, I might say, if the Senate later on tonight finally votes into the bill the Bellmon amendment we debated earlier.

I asked a question on this subject matter of the Inspector General of the Department of Agriculture. Lest my credentials, on being interested in fraud, waste, and abuse, be overlooked, I was the author of the Inspector General bill in this body, the bill that set up 12 officers of Inspector General in the major departments of government.

Last year in the hearings on the fiscal 1980 bill, I asked Mr. McBride, the Inspector General, the following question, and I will give his answer thereto:

QUESTION. Why shouldn't this committee strike \$400 million from food stamps and say, "McBride, go out and find that \$400 million and everybody will be better off?"

Mr. McBride. Unfortunately, fraud is not a line item. [Laughter.]

I would not recommend the meat axe approach, because you are dealing with a very complex system of delivery. It involves not only the Federal Government; it involves 54 State and territorial jurisdictions which issue food stamps. Management quality in those States varies widely. Some do a very effective policing job on the food stamp program. Some have error rates as low as 4 or 5 percent. Others, particularly the major metropolitan areas, do a very poor job. You will find error rates, and fraud is certainly part of that error rate, rising to as high as 30 to 40 percent.

We obviously concentrate our audit effort on those big volume, high error rate jurisdictions, trying to improve management as well as trying to detect and prosecute those who illegally obtain benefits.

The problem is that the shotgun approach to the program budget just doesn't work.

That is the question I asked and that is really the proposal of Senator McClure here tonight. The Inspector General went on to say:

It would cut off benefits to eligibles, as well as ineligibles, and hurt the deserving as well as the undeserving. So you are really dealing with a problem where you have to, through a variety of management, audit and other monitoring devices, attempt to bring down those error rates to within tolerable limits.

I think it is not responsible to suggest that you can totally eliminate fraud, abuse and error from a gigantic program like this. You must recognize that there are certain tolerances in any program involving 18 million recipients.

Now, another point, although part of what the Senator from Idaho had to say was not directly germane to this amendment. I realize it may have broad applicability, not only to the amendment, but to others he may propose, wherein he itemized for us a list of savings he thought could be intelligently made in this program by changing various eligibility criteria, and so forth.

I did not take verbatim notes, but some of the proposals he mentioned have already been included as part of S. 1309, which just passed this body a few moments ago. These new antifraud provisions will be the subject of new regulations to be issued by the Department of Agriculture in the near future.

As he said, these were not figments of his imagination. I think by inference the Senator from Idaho may have inferred this was not spontaneous, original brilliance pouring forth from him ab initio this evening, that some of these proposals have been taken up on previous occasions by the Senate Agriculture Committee, the authorizing committee, the committee that properly writes the food stamp law.

Some of those were taken up before that committee in 1977. Some of these were proposed before that committee in 1979.

I dare say, since the food stamp program expires in calendar year 1981 and will, if demonstrated needed, be reauthorized in 1981, some of these proposals that the Senator from Idaho has made will be taken up before the committee at that time.

Here we are dealing with an urgent supplemental bill. We are dealing with a program two-thirds of the way through a given fiscal year, and the time and the place to go into various methods as to how to change eligibility, or the various methods by which one qualifies for the food stamp program, those, to me, are appropriate matters to be considered in a timely fashion before the appropriate authorizing committees of both the Senate and the House.

I realize that the Senator was arguing for those, in essence, by way of background to this amendment and not to make them immediately applicable to this amendment at this time.

Nonetheless, Mr. President, I will conclude, and then I will be prepared to yield back the remainder of my time on this amendment.

I share some of the apprehensions that the Senator from Idaho has with respect to this program. I share the same anxiety he has about people abusing a program, ripping it off, cheating, and so forth. I wish to God there were a highly surgical, targeted method by which we could strike at those who are cheaters and abusers and rip them out of the bill in a precise, delineated way. If there were such a method, I would be very keen to support it. Indeed, I would be very keen to offer that amendment myself.

But to offer an amendment to cut this program by \$200 million; then to put a sticker on it and say this is the fraud, waste, and abuse amendment; to give it a sort of catchy appeal, to give it the idea that "by God, I'm against fraud, waste, and abuse," is to mislead this body as to what the pragmatic effect of a \$200 million cut will have on this program—especially at a time, as I said, when we are in the early stages of a recession which could cause an additional million people to be unemployed, perhaps, in the next 2 or 3 calendar months.

Mr. President, I reserve the remainder of my time.

Mr. McCURE. Mr. President, I have been listening carefully to the comments of the distinguished Senator from Missouri. I just wish he had had the strength of his conviction when he asked the question of the Inspector General, instead of being so easily dissuaded from the purpose which led him to ask the question.

This is not simply a matter of fraud and abuse. I simply indicated that if we tighten this program, this saving is easily obtainable.

I do not intend to debate the matter further at this time. I am prepared to yield back the remainder of my time, if the Senator from Missouri is prepared to do so.

Mr. EAGLETON. I yield back the remainder of my time.

Mr. McCURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the Senator from Idaho is recognized to call up his second amendment.

UP AMENDMENT NO. 1099

Mr. McCURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCURE) proposes an unprinted amendment numbered 1099.

Mr. McCURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 2, strike the period and add the following:

"Provided further, That the value of the Food Stamp allotment which state agencies shall be authorized to issue to any households containing members who have meals provided under the National School Lunch Program available to them shall be determined by reducing that household's allotment by the product obtained by multiplying—

(A) a monthly amount equal to the per person per meal value of the Thrifty Food Plan for a household consisting of 8 persons by;

(B) the number of such meals per month available to household members by;

(C) the number of household members eligible for free or reduced price meals under the National School Lunch Program by;

(D) a national average school attendance per month factor prescribed by the Secretary of Agriculture."

Mr. McCURE. Mr. President, I have provided copies of this amendment to the managers of the bill so that they may read it and understand what it is, and so that it would not be necessary to read the entire amendment.

This is a saving which is possible to make and which is not covered under the existing reform.

I note parenthetically that the Senator from Missouri said that some of the savings already have been voted for, to take effect in 1981. But those savings that affect 1981, under the bill we have just passed, do not go into effect until

after October of this year. Hundreds of millions of dollars of savings could be made if we applied them now, rather than waiting 5 months to initiate them.

This amendment would reduce the food stamp law by eliminating duplication of benefits under the food stamp and school lunch program, which amounts to an estimated \$630 million per year—that is the estimate of the Senate Budget Committee—which amounts to \$2.187 million per day over the 9½ month school year.

If we applied this amendment to the remainder of this school year, it would save \$98.43 million over the estimated 45 school days remaining in fiscal year 1980.

So this amendment, modest as it is, amounts to \$100 million, simply by saying that in the computation of benefits to be paid to a household—the computation that sets up the thrifty food plan that says what the nutritional requirements for that family are—it simply would say, subtract from that thrifty food plan the number of meals that household is getting through the school lunch program, and reduce the food stamps issued to that household by the amount of nutrition that is furnished through the school lunch program—a saving of \$98.43 million in the remainder of this fiscal year.

Mr. President, if the thrifty food plan is the adequate measure of the nutritional needs of that household, then we can subtract the food that is furnished to them under other plans, without having subtracted from the necessary nutritional needs of that family.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. LEAHY). Who yields time?

Mr. EAGLETON. Mr. President, this, again, is legislative matter that would be better considered by the authorizing committee. An urgent supplemental bill designed for the singular purpose of continuing a program already in place is an inappropriate place. The program has already been subjected to extraordinary economic demands by reason of the fact that first, Congress consciously underappropriated for the program at the very outset, stated so in the appropriation bill conference that set forth the amount of some \$6.2 billion, and, second, has had enormous demands made upon it by reason of the escalation of food costs, higher than anticipated unemployment rates, and so forth.

Now, two-thirds of the way through the school year, to try to rewrite substantively the program in this urgent supplemental bill, would be a serious mistake. I think that whatever might be called for by this McClure amendment would be virtually impossible to implement with but 4 months remaining in this fiscal year.

For that purpose I hope that the McClure amendment is rejected. The same amendment or virtually the same amendment was considered in the House of Representatives last week and I am told was rejected on a rollcall vote of 269 to 134.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield to my colleague from Montana.

Mr. MELCHER. It was also rejected by the Agriculture Committee. Virtually the same thing was considered, and we rejected it because for one thing the schools were very upset. The State authorities were very upset. This is a nightmare to enforce and what you are enforcing is those families who have schoolchildren who are on this so-called "thrifty food plan," which is not a very lavish plan, would simply have deducted from their allotment the equivalent of whatever the school lunches were.

I think it is the worst place in the world to try to cut down on abuses of the food stamp program by worrying about what growing kids at school eat.

I think the Agriculture Committee did the proper thing by rejecting the amendment.

Mr. McCLURE. Mr. President, as the Senator knows, I always bleed for bureaucrats when they administer a law that saves taxpayers \$63 million a year.

The Senator from Montana may think the committee did the right thing by leaving the program that way, but the Senator from Idaho does not.

As far as the difficulty of administration is concerned, it is a simple formula computation, not at all beyond the ability of most midlevel bureaucrats, and I think they could absorb the intricacies of that process to administer it without great difficulty.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield for a question.

Mr. MELCHER. I cannot pose it in a question.

Mr. McCLURE. How much time does the Senator want?

Mr. EAGLETON. Mr. President, I am glad to yield such time as the Senator from Montana desires.

Mr. MELCHER. Mr. President, I simply state that we could not, and I am talking about the Agriculture Committee, determine any such sum of money that could conceivably be attributed to this proposal.

We discussed this at length with all sorts of State officials and all sorts of school officials, and we simply could not put that type of money to the amendment at all.

Mr. McCLURE. Mr. President, I am prepared to yield back the remainder of my time if the Senator from Missouri is, with one final statement.

The estimate I used came from the Budget Committee and that is the figure that the Budget Committee used in their estimate of possible savings.

I am prepared to yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

UP AMENDMENT NO. 1100

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

CXXVI—708—Part 9

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1100.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 2, strike the period and insert the following:

"Provided further, That funds appropriated herein shall not be available to pay any benefits to any individual or household unless all educational loans on which payment is deferred; grants, fellowships, scholarships, and veteran's educational benefits used for the payment of tuition and mandatory fees at any educational institution of higher learning; and all housing subsidies including, but not limited to payments made by an outside party on behalf of an individual or household, are included as income when determining the eligibility of such individual or household to participate in the Food Stamp Program."

Mr. McCLURE. Mr. President, again this amendment is another on the list of possible savings, and I just picked three out of that whole list, and I have not recited these three excerpts as I presented the amendment as to the savings that could be made in the administration of this program.

I have furnished the managers of the bill with a copy of this amendment so that we might save the time by not reading it.

But this simply deals with the eligibility criteria for those who receive food stamps and require some items of income which they have to be included in the calculation of their income to determine whether or not they are eligible.

After all, I think the working men and women of this country who pay the taxes to support this program are entitled to have the knowledge that the recipients of the food stamps do not have sufficient income to pay for the food themselves.

So these items of income which go into their household income, which are now excluded under the regulations, under my amendment would be included in household income. It would include deferred loans, fellowships, scholarships, grants, and veterans educational benefits used for tuition and mandatory fees as a part of income and there is, if this were done, an approximate savings of at least \$40 million annually or \$13.3 million over 4-month period of the supplemental.

Mr. President, I reserve the remainder of my time.

Mr. EAGLETON. Mr. President, this amendment offered by the Senator from Idaho deals with student loans and other benefits provided for a specific purpose.

As the Senator knows, S. 1309, which we voted on an hour ago or so, eliminates most students from the food stamp program. The only students who still would be eligible under the terms of S. 1309 are disabled students; students under 18 or over 60, those who al-

ready work, such as a student who works full-time and supports a family and goes to school at night; and welfare recipients enrolled in school under the work incentive program, so that they can get jobs and get off welfare.

The McClure amendment would count as income that portion of a student loan that goes for tuition for these disabled and other few students who remain eligible.

As for the other parts of the amendment, when educational benefits like scholarships or veterans benefits for tuition and fees are provided, they are properly excluded as income since they cannot be used by the recipient for his living expenses.

Mr. EAGLETON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. McCLURE. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Pursuant to the previous order, the Senate will now proceed to vote on the first amendment offered by the Senator from Idaho.

The Chair will advise that this rollcall is a 15-minute rollcall and the next two rollcalls will be 10-minute rollcalls.

The question is on agreeing to the amendment (UP No. 1098) of the Senator from Idaho. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. RIBICOFF) and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Iowa (Mr. JEPSEN), the Senator from South Dakota (Mr. PRESSLER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber who has not voted who wishes to vote?

The result was announced—yeas 35, nays 52, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—35

Armstrong	Hatch	Pryor
Baker	Havakawa	Roth
Bentsen	Helms	Schweiker
Boren	Hollings	Simpson
Boschwitz	Johnston	Stennis
Byrd	Lavett	Stevens
Harry F., Jr.	Long	Thurmond
Cochran	Lugar	Tower
Cohen	McClure	Wallop
Evon	Morgan	Warner
Garn	Nunn	Young
Goldwater	Proxmire	Zorinsky

NAYS—52

Baucus	Ford	Metzenbaum
Bayh	Glenn	Moynihan
Bellmon	Gravel	Nelson
Biden	Hart	Packwood
Bumpers	Hatfield	Percy
Burdick	Hefflin	Randolph
Byrd, Robert C.	Heinz	Riegle
Chafee	Huddleston	Sarbanes
Chiles	Jackson	Sasser
Church	Javits	Schmitt
Culver	Kassebaum	Stafford
Danforth	Leahy	Stevenson
DeConcini	Levin	Stewart
Dole	Magnuson	Stone
Domenici	Mathias	Talmadge
Durenberger	Matsunaga	Tsongas
Durkin	McGovern	
Eagleton	Melcher	

NOT VOTING—12

Bradley	Inouye	Pressler
Cannon	Jepsen	Ribicoff
Cranston	Kennedy	Weicker
Humphrey	Pell	Williams

So Mr. McCURE's amendment (UP No. 1093) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the next vote will be a 10-minute rollcall vote on Senator McCURE's second amendment, (UP No. 1099).

The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. HUMPHREY), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber who have not voted who wish to vote?

The result was announced—yeas 30, nays 58, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—30

Armstrong	Goldwater	Proxmire
Baker	Hatch	Roth
Bellmon	Havakawa	Schweiker
Bentsen	Helms	Simpson
Boren	Hollings	Stennis
Boschwitz	Johnston	Thurmond
Byrd	Kassebaum	Tower
Byrd, F. Jr.	Lavalt	Wallop
Church	Lugar	Young
Cohen	McCure	
Garn	Percy	

NAYS—58

Baucus	Burdick	Cochran
Bayh	Byrd, Robert C.	Culver
Biden	Chafee	Danforth
Bumpers	Chiles	DeConcini

Dole	Jepsen	Randolph
Domenici	Leahy	Riegle
Durenberger	Levin	Sarbanes
Durkin	Long	Sasser
Eagleton	Magnuson	Schmitt
Exon	Mathias	Stafford
Ford	Matsunaga	Stevens
Glenn	McGovern	Stevenson
Gravel	Melcher	Stewart
Hart	Metzenbaum	Stone
Hatfield	Morgan	Talmadge
Hefflin	Moynihan	Tsongas
Heinz	Nelson	Warner
Huddleston	Nunn	Zorinsky
Jackson	Packwood	
Javits	Pryor	

NOT VOTING—11

Bradley	Inouye	Ribicoff
Cannon	Kennedy	Weicker
Cranston	Pell	Williams
Humphrey	Pressler	

So Mr. McCURE's amendment (UP No. 1099) was rejected.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. EXON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the third amendment of the Senator from Idaho will be subject to a 10-minute vote. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. HUMPHREY), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER (Mr. STONE). Is there any Senator in the Chamber who has not voted who wishes to vote?

The result was announced—yeas 46, nays 42, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—46

Armstrong	Exon	Proxmire
Baker	Garn	Roth
Bellmon	Goldwater	Sasser
Bentsen	Hart	Schweiker
Biden	Hatch	Simpson
Boren	Havakawa	Stafford
Boschwitz	Helms	Stennis
Bumpers	Hollings	Stevens
Byrd	Johnston	Stewart
Byrd, F. Jr.	Kassebaum	Thurmond
Church	Lavalt	Tower
Cochran	Lugar	Wallop
Cohen	McCure	Warner
Danforth	Morgan	Young
DeConcini	Nunn	Zorinsky
Dole	Packwood	

NAYS—42

Baucus	Chafee	Durenberger
Bayh	Chiles	Durkin
Burdick	Culver	Eagleton
Byrd, Robert C.	Domenici	Ford

Glenn	Levin	Percy
Gravel	Long	Pryor
Hatfield	Magnuson	Randolph
Hefflin	Mathias	Riegle
Heinz	Matsunaga	Sarbanes
Huddleston	McGovern	Schmitt
Jackson	Melcher	Stevenson
Javits	Metzenbaum	Stone
Jepsen	Moynihan	Talmadge
Leahy	Nelson	Tsongas

NOT VOTING—11

Bradley	Inouye	Ribicoff
Cannon	Kennedy	Weicker
Cranston	Pell	Williams
Humphrey	Pressler	

So Mr. McCURE's amendment (UP No. 1100) was agreed to.

Mr. McCURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Oklahoma.

Mr. BELLMON. Mr. President, have the yeas and nays been ordered on this amendment?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BELLMON. I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1096

Mr. BELLMON. Mr. President, inasmuch as the tabling motion failed by 26 to 61, I see no point to a rollcall vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

Mr. McCURE. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I rise in support of the Senate Appropriation Committee's fiscal year 1980 supplemental appropriation bill which includes \$3 billion in increase funding for the food stamp program.

This program has been a vital link in a chain that has changed the quality of life for many Americans. Our Nation through this and other programs is leading the world in its attempts to eliminate hunger at home and abroad. The importance and viability of this program has been attested to both by studies conducted by several of our Nation's leading educational institutions and individual citizens.

Last year, the Senate passed S. 1309, the food stamp authorization bill. This legislation removed the food stamp authorization cap for fiscal years 1981 and 1982. Today the Senate is being asked to reaffirm its earlier decision. The food stamp program is a very expensive program, but the fight against hunger and malnutrition is a fight that must also be measured in human terms. Americans should not be deprived of sufficient food to meet their nutritional needs unless there is no other way.

Today, our Nation is facing an eco-

nomic crisis which will result in increased levels of unemployment. Many unemployed families may be without the economic means to meet their daily nutritional needs. Given this reality it would be imprudent for the Senate not to appropriate the funds necessary to insure the continuation of this program.

For those who express concern over the increase in food stamp recipients which will occur during the remaining months of fiscal year 1980, I call their attention to the fact that many of these recipients are workers who have been temporarily laid off. Such individuals have supported this program through their tax dollars and should not be deprived of its benefits in their time of need.

Mr. President, many households will begin to experience significant nutritional difficulties if this bill is not adopted. These households will be forced to make the impossible choice between health care needs and shelter costs on the one hand and decent food on the other. This choice is no choice. This bill is not without its costs—but the costs of not adopting it are much higher in terms of human suffering and nutritional deprivation.

● Mr. WEICKER. Mr. President, I strongly support House Joint Resolution 545, the food stamp supplemental, and urge my colleagues to act swiftly on this matter.

Mr. President, this legislation will provide the additional \$3 billion necessary to maintain the food stamp program at current levels through this fiscal year. Without the additional funds, the Secretary of Agriculture will order all States to cut off food stamp benefits on June 1, 1980. If Congress does not act quickly to approve this legislation, food stamp benefits to an estimated 21 million Americans will be terminated.

More than a decade ago, the United States declared war on hunger and malnutrition. Since then, the food stamp program has become a vital element in the Federal and State programs of assistance to low-income households; food stamp households have an average income level of approximately \$320 per month.

Mr. President, food prices have risen 32 percent since 1977—far beyond the 13-percent rise projected in the authorizing legislation. In that year unemployment was predicted to reach a level of 5.7 percent by 1980. Today's estimates indicate that unemployment will reach 6.8 percent. The Consumer Price Index shows that during the last 4 years prices for other basic necessities such as fuel, housing, and medical care have risen approximately 34 percent. Though most Americans spend 60 percent of their income on these necessities, the poor must spend 90 percent. These factors have substantially contributed to the 25-percent increase in the levels of participation in the food stamp program since 1977.

Local food banks and States will not be able to absorb the \$3 billion loss that will occur if the supplemental legislation is not approved and benefits are not provided at current levels. The economy will

lose millions of dollars in each month that food stamps are not issued.

Mr. President, I understand that significant costs incurred within the food stamp program are due to fraud and wasteful administration in the program. These problems must be resolved. Legislation to reauthorize the program has been introduced with provisions that address these issues. In addition, the fiscal year 1981 budget request has incorporated several measures to respond to these problems.

Today we must act to insure the continuation of food stamp benefits through this fiscal year. I urge my colleagues once again to join with me in supporting this legislation in the hope that we will soon win both the war against inflation and the war against hunger. ●

The PRESIDING OFFICER. If there be no further amendment to be offered, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. BAKER. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. PRYOR), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from New Jersey (Mr. BRADLEY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. HUMPHREY) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER. Is there any Senator wishing to vote who has not voted?

The result was announced—yeas 70, nays 18, as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—70

Baker	Burdick	Danforth
Baucus	Byrd, Robert C.	DeConcini
Bayh	Chafee	Dole
Bellmon	Chiles	Domenici
Bentsen	Church	Durenberger
Biden	Cochran	Durkin
Boren	Cohen	Eagleton
Bumpers	Culver	Exon

Ford	Long	Roth
Glenn	Magnuson	Sarbanes
Gravel	Mathias	Sasser
Hart	Matsunaga	Schmitt
Hatfield	McGovern	Schweiker
Heflin	Melcher	Stafford
Heinz	Metzenbaum	Stevens
Hollings	Morgan	Stevenson
Huddleston	Moynihan	Stewart
Jackson	Nealon	Stone
Javits	Nunn	Talmadge
Jepsen	Packwood	Tsongas
Johnston	Percy	Warner
Kassebaum	Pressler	Young
Leahy	Randolph	
Levin	Riegle	

NAYS—18

Armstrong	Hayakawa	Stennis
Boschwitz	Helms	Thurmond
Byrd	Laxalt	Tower
Harry F., Jr.	Lugar	Wallop
Garn	McClure	Zorinsky
Goldwater	Proxmire	
Hatch	Simpson	

NOT VOTING—11

Bradley	Inouye	Ribicoff
Cannon	Kennedy	Weicker
Cranston	Pell	Williams
Humphrey	Pryor	

So the resolution (H.J. Res. 545), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments to House Joint Resolution 545.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. EAGLETON, I move that the Senate insist on its amendments to House Joint Resolution 545, request a conference with the House on the disagreeing votes of the two houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. EAGLETON, Mr. STENNIS, Mr. PROXMIRE, Mr. ROBERT C. BYRD, Mr. BAYH, Mr. CHILES, Mr. BURDICK, Mr. SASSER, Mr. MAGNUSON, Mr. LEAHY, Mr. BELLMON, Mr. YOUNG, Mr. MCCLURE, Mr. GARN, and Mr. SCHMITT conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, today the Senate acted to insure that food stamp benefits are not jeopardized. Earlier, with adoption of the conference report on S. 1309, the food stamp authorization bill, the Senate agreed to raise the spending ceiling on the program, which is needed because higher unemployment has resulted in a larger number of eligible recipients, and because of the rising cost of food.

I commend the distinguished chairman of the Agriculture Committee (Mr. TALMADGE) for his efforts to expedite this matter. This program is an important one which the chairman and his committee have refined and improved through their diligent work. I also commend Mr. HOLLINGS.

House Joint Resolution 545 provides urgent supplemental appropriations for the food stamp program for fiscal year

1980. Because of the urgency of the food stamp funding situation, funding for the food stamp program was split off from the larger supplemental and provided for in this resolution.

The food needs of more than 21 million beneficiaries nationwide are dependent upon this urgent supplemental. In my own State of West Virginia, 22,000 beneficiaries are counting on approval of this resolution so that they may be assured of receiving the important benefits which are provided by the food stamp program.

I thank the chairman of the Appropriations Subcommittee on Agriculture (Mr. EAGLETON) and the ranking minority member on that subcommittee (Mr. BELLMON) for the expeditious manner in which they handled this measure in the Appropriations Committee yesterday afternoon. Mr. MAGNUSON and Mr. YOUNG, chairman and ranking minority member on the full committee, are to be commended as well for the support they lent to efforts to get this urgent supplemental reported as quickly as possible.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, for not to exceed 30 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

AAAS CRITICIZES SOVIET UNION FOR TREATMENT OF SAKHAROV

Mr. PROXMIRE. Mr. President, today I again wish to recognize the American Association for the Advancement of Science. Following the association's recent endorsement of U.S. ratification of the Genocide Convention, the group made another bold announcement for freedom. This time the AAAS criticized the Soviet Union for its treatment of vocal dissident and Nobel Prize winner Dr. Andrei Sakharov.

The association sent the following succinct telegram to the Soviet Ambassador to the United States, Anatoliy Dobrynin:

As officers of the American Association for the Advancement of Science, we are deeply concerned about the recent actions taken against Andrei Sakharov. These actions will undoubtedly undermine the spirit of cooperation which underlies scientific exchange between our two countries, and will further divide our nations at a time when every effort should be made to preserve a strategy of peaceful cooperation.

The exile of Professor Sakharov deprives the people of the Soviet Union and the world of a brilliant voice in support of mutual understanding and the defense of human freedom. We strongly urge that he be protected from further harassment.

The message was brief and reasonable. But it penetrates to the heart of the Soviets' maltreatment of a man whose crime has been to speak what he believes. He has spoken truths that do not fit the mold of official truth in the Kremlin.

The internal exile and isolation of Dr. Sakharov extends beyond the muzzling

of his voicing opposition to Soviet dogma. Just as Russian leaders have squelched Sakharov from expressing his political opinion, so they have cut him off entirely from his scientific endeavors. He is permitted neither to express his conscience nor continue his physics research.

I applaud the stand the American Association for the Advancement of Science has taken in the defense of freedom. I find the announcement the perfect complement to the association's endorsement of the Genocide Convention. With the two proclamations, the association has both pointed out an abuse of freedom today and pointed to a potential safeguard of freedom for tomorrow—the Genocide Convention. I join the AAAS in urging the Senate to ratify the Genocide Convention.

THE GREAT AMERICAN CREDIT COLLAPSE

Mr. THURMOND. Mr. President, the Federal Reserve System action of May 8, 1980, was yet another blow to the bond market—a market that virtually collapsed a few weeks earlier when interest rates were sharply escalating. The Fed's move to stem, at least temporarily, the recent drop in interest rates resulted in a sharp decline in long-term bond prices.

Mr. President, the strength of the market for these long-term bonds is critical to every facet of our Nation's domestic productivity and equally important to our American position in the international monetary arena. An article, titled "The Great American Credit Collapse," which was published in the April 5, 1980, issue of the New Republic, provides excellent perspective and insight regarding the bond market and other related credit problems of recent months. The author of the article is William J. Quirk, professor of law at the University of South Carolina.

Mr. President, Professor Quirk points to the situation of recent months when the bond market collapsed because no amount of interest would induce the lender to part with his money for a promise to repay at some time in the future. Rather than in years, repayment now must be promised in days. The long-term lender has lost confidence in the stability of the dollar in which he will be repaid. Without confidence in the dollar, the long-term bond market cannot exist. Foreigners stopped taking dollars in the late 1970's. In 1980 Americans are following suit.

Mr. President, this is indeed a critical situation and one that requires our most serious consideration. In order to share Professor Quirk's excellent article with my colleagues, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GREAT AMERICAN CREDIT COLLAPSE

(By William J. Quirk)

Every inflationary spiral contains within it the seeds of its own destruction. The German inflation of 1923 topped out when farmers refused to exchange their produce for any amount of paper marks. Money was

then disregarded and the economy went on to a barter basis.

Over the past few weeks, the bond market has collapsed with a sickening thud, the victim of escalating interest. Since June 1979 the value of outstanding bonds has dropped 25 percent, a dollar loss of about \$500 billion. By comparison, in 1929 we called it a depression when the stock market in October and November lost \$23 billion. Today all the major banks, if they had to value their bond portfolios at current market rates, would be insolvent. The bond market, which annually raises \$40 billion for business, is practically at dead stop. Respected conservative economists speak of a "national emergency." The federal government itself, owner of the printing press, must pay 16 percent to borrow money. The debt service on the national debt, of which \$450 billion must be rolled over each year, will consequently climb to disastrous levels. Felix Rohatyn, noting "chaos in the credit markets," warns that the US is in a "slide towards bankruptcy." Today paper money doesn't count. These facts obviously describe a financial collapse—a point already becoming clear to the worker reading about 20 percent inflation while getting an eight percent raise.

The bond market collapsed when no amount of interest would induce the lender to part with his money for a promise to repay at some time in the future. Repayment now must be promised in days, not years—90 days, 180 days, and 270 days are common periods. The long-term lender has lost confidence in the stability of the dollar in which he will be repaid. Interest is the investor's return for the use of his money but can't protect him against repayment of his loan in funny money. Without confidence in the dollar the long-term bond market cannot exist. Foreigners stopped taking dollars in the late 1970s. In 1980 Americans are following suit.

Many individuals, of course, have played this game from the other side—undertaking heavy mortgage obligations in the expectation of repaying in cheap dollars. So it is not too surprising if the people being repaid with cheap dollars have had enough. Like the German farmers, investors have refused to exchange a known value—the current worth of a dollar—for something unknown, namely the value of a dollar five or 10 or 20 years from now. Inflation, by definition, destroys all long-term obligations. The long-term fixed interest bond is totally dependent upon a stable currency. For example, take a rosy view and assume that inflation goes along at a steady and cool rate of 10 percent per year. Assume a \$10,000 20-year bond due in the year 2000: simply to preserve the purchasing power of his original capital the lender would have to be paid back \$67,276 in the year 2000. The lender requires that amount to recover the original principal; it does not include any return for the use of his money and related credit risk.

As interest rates increase the bond owner gets to watch the value of his capital go down. Higher interest rates mean lower bond prices. In less than a year Treasury bonds have lost 30 percent of their value—Treasury 9½% of May 15, 2009, sold last May at par (\$100), are trading now about \$70. IBM's 25-year 9½ percent debentures issued last October are down to 76.5 percent of their face value. A trustee who bought a Pacific Telephone bond in 1967 would have lost more than half his principal by 1980: Pacific Telephone's 35-year six percent debentures issued in 1967 at \$100 are down to around \$47 today. This is a severe loss indeed on what was traditionally viewed as an investment for those who should take no chances—pensioners, widows, and orphans.

A trustee who must report such capital devastation to his beneficiaries is in for as

painful an experience as the beneficiaries. He can, of course, explain that Pacific Telephone is still paying the \$600 annual interest, and if the trust holds the bonds until 2000, Pacific Telephone will surely repay the original \$10,000. He can give no assurance, however, that the \$10,000 in the year 2000 will buy a salami sandwich.

Of course most trustees never intended to hold a bond until its maturity in the distant future. Who would invest in a security not due until 2020 which might be well beyond the expected lifetime of its purchaser? The trustee always thought that he could sell a bond for close to its face value if money was needed to send a child to college, for example. The bond could be sold in the secondary market for about what he paid—assuming, of course, that interest rates remained reasonably stable.

What will the trustee do next time to protect himself? He may invest in a money market fund. Virtually unknown five years ago, these funds have become a haven for scared money. Essentially a high-interest bank account, the funds now total \$60 billion—including an addition of \$6.8 billion in February and \$7.9 billion in January. The funds invest largely in short-term federal notes, commercial paper, and certificates of deposit. Their appeal to the investor is defensive. All obligations are short term; the investor stays current with short-term interest rates and is free to withdraw his capital at will.

Europeans always have been puzzled by the American long-term bond. To them seven years is considered long term and floating or variable interest rates are used. But for the last 100 years the United States has funded its private and public growth with long-term (20 to 40 years) fixed-interest bonds. The stock market, while glamorous, has been relatively trivial as a source of funds. The due date of a long-term bond, say 2020, is far in the future. A great deal of change would be expected even in a fundamentally sound society. Only the United States has had the moral, political, and financial stability necessary to pull off such arrangements.

Would American bonds modeled after European standards sell? Say a seven-year term with variable interest, attractive call provisions and, perhaps, convertible to common stock. Are we just in a creative lull before someone comes up with the innovation that will permit the system to clear the overhang and go forward? Perhaps so, but there will be serious differences that impair productivity. A company, if it can only secure short-term financing, must hesitate before making a long-term investment. Playing roulette with financing costs has obvious dangers.

The immediate cause of the bond market collapse was Federal Reserve Chairman Volcker's statement of October 6, 1979. Volcker had just returned from the IMF meeting in Belgrade determined to buck up the fading dollar on international exchanges. Former chairman Miller's First Annual Fall Dollar Rescue (November 1978) had by this time completely run out of steam. Touted at the time as strong medicine likely to induce a recession, it was necessary, Miller said, to save the dollar. Many, in 1980, could not even recall the first rescue attempt, much less any strong medicine. But this time it was different. The problem, as Volcker saw it, was that Americans were treating credit like gasoline: no matter how much the price was raised, they continued to use about the same amount. The only solution was to ration it. Volcker adopted the currently fashionable monetarist philosophy and imposed stiff reserve requirements on the banks. The money supply was kept under a hand firm enough to please Milton Friedman.

In the past Volcker had been criticized for conservative rhetoric while the money printing presses rolled. But now, with the supply fixed—and demand fueled by continuing inflationary expectations—the squeeze was on and the price of money went right through the roof. Predictably, the first victims of the get-tough policy were the holders of the \$2,000 billion worth of outstanding bonds whose capital melted as interest rates rose to 20 percent. Volcker had promised that interest rates would decline as his measures took hold, "whatever the initial impact on interest rates." But he never promised when they would come down or what would come down with them.

The next victim was the stock market since historically, the bond and stock markets move together. Besides why pay a brokerage commission to invest in a blue chip stock yielding a seven percent return when you can invest in a no-load money market fund yielding 13 or 14 or 15 percent and have relative safety of principal and free checking to boot?

Internationally, the Volcker policy has successfully strengthened the dollar. Europeans have been impressed by the Fed's resolve. But how much more domestic carnage will be tolerated for this goal seems questionable. Politically, the choice of bondholders as primary victims was brilliant. Bonds are held by a narrow and wealthy group of individuals and institutions. Probably every non-bondholder would agree that they are a perfect group to bear the brunt of the fight against inflation. But as the ripples go out all will be affected and the president's free ride on the inflation train will come to an end. Also, the institutions involved are very powerful. Government and the Federal Reserve exist to help them, not hurt them.

The president's free ride is not shared by people who are forced to sell their homes in the current housing market. Caught in the middle of a bursting housing bubble, home-sellers are an additional group of victims, as incredible interest costs have virtually closed down private sales of housing. The startling fact is that a three percent increase causes an increased monthly cost to the buyer of 23 percent. Take a \$75,000 house (hardly a palace) and a \$15,000 downpayment; at 12 percent the monthly mortgage cost to the buyer is \$617.17; at 15 percent the monthly cost is \$758.67. The prospective buyer has at least one good option—he can refuse to buy. The seller's options are more or worse: he can (1) lower the price or (2) himself provide some financing to the buyer. The second option, its legal problems aside, puts the seller into the lending business with all its risks just as the country heads into recession. Chairman Volcker's bubble-pricking policy wins either way. If the seller himself takes a note from the buyer, at least there will be no new money sloshing around the economy. If he lowers the price it is a clear win for the feds.

On March 14 President Carter, saying we are in a "dangerous situation that calls for urgent measures," announced his latest anti-inflation plan. The market had long discounted the president's expected credit controls, but they were even weaker than expected. Some limits on future credit card borrowing do not seem material to the problem. In any case the Fed is doing about all it can to limit credit and, in the absence of foreign exchange controls to prevent Euro-dollar borrowing, about all that can be done.

Consumer credit, of course, has provided much of the funding for inflation. Non-housing consumer installment debt has doubled in the last four years—from \$150 billion to \$300 billion. This increase coincides with the beginning of the real depression for American workers, who have each year since 1974 experienced a decline in real purchasing

power. The combined effect of inflation, the progressive tax system, and increased social security payments have decimated the middle-class paycheck. Middle-class taxpayers have risen into lofty tax brackets previously reserved for their betters. Their increased borrowing has been an obvious effort to maintain a constant standard of living in the face of lower real wages.

The amount of debt in the United States is stupendous. Government debt is \$924 billion; business debt is \$1232 billion; and household debt (mortgage and installment) is \$1279 billion. It may be some comfort that as a percentage of GNP the overall total of debt has slightly decreased since 1946, when it was 155.9 percent, down to 145.5 percent in 1979. While consistent, the figures are nonetheless high—almost identical to those in 1921 to 1929. Moreover, the nature of the debt has changed sharply. Government debt, surprisingly enough, as a percentage of GNP, has declined sharply since World War II from 110.5 percent (1946) to 39.4 percent (1979). Business debt has risen from 29.4 percent (1946) to 52.2 percent (1979). The stunning increase has taken place in household debt—16 percent (1946) to 53.9 percent in 1979.

Is this level of household debt sustainable under any likely scenario? After Carter's program fails, if the Fed keeps to its plan, we must fall into the long-awaited recession. Because it has been postponed so long, the recession may well be severe. Indeed, a deflationary spiral may be as hard to control as an inflationary one.

There must be serious doubt about the economic resilience of the 74 million American households. Family income, extended by recent borrowing, is taut as a bowstring. Two-paycheck families seem reasonably prosperous but cannot afford the loss of a paycheck.

One-paycheck families are already under severe stress. A typical taxpayer earning \$30,000 immediately loses \$10,000 to federal and local taxes. His remaining \$1700 per month spendable income is heavily encumbered. Probably over 40 percent will go to debt—say \$400 for mortgage; \$100 for car payments; \$100 for department store credit; and \$100 for credit card payments. His problems are deeper than President Carter seems to realize. He is left with \$1000 a month to feed, clothe, maintain, and educate a middle-class family. The Fed seems to think he can make it if he exercises some self-discipline. Maybe he can't. The point is that this time the Fed is deadly serious. Europeans, who have a lot to lose, are betting on that.

THE NEED FOR STRONGER U.S. MILITARY

Mr. THURMOND. Mr. President, a succinct editorial on U.S. military preparedness has been published in the May 1980 issue of the *Officer* magazine, a publication of the Reserve Officers Association.

Maj. Gen. J. Milnor Roberts, executive director of ROA, has authored a short editorial entitled "Come As You Are War?"

He points to the fact that the Congress must cease "politics-as-usual" and undertake a major rearmament program as soon as possible. As one who attempted, in recent years, to strengthen our declining defense posture, I heartily endorse the recommendations of General Roberts.

Mr. President, I ask unanimous consent that this article, which appeared in the May 1980 issue of the *Officer* magazine, be printed in the *Record*.

There being no objection, the article was ordered to be printed in the RECORD as follows:

"COME AS YOU ARE WAR?"

No member of Congress should be surprised when informed that we are ill prepared to conduct conventional military operations either in the NATO or the Persian Gulf areas. Year after year during the 70s, uniformed members of the Defense establishment have warned the Congress of the folly of adjusting military expenditures to fit whatever budget civilians in OMB decide is politically acceptable. The results of this extended policy are now painfully evident, and the years of relative neglect in weapons procurement, prudent maintenance of installations and some hardware items, plus the pretense of a successful Volunteer Army have brought us to a point of peril greater than December 8, 1941.

According to a recent report of the House Budget Committee, Secretary of Defense Harold Brown made the following statement about the 1981 defense budget in a classified hearing:

"The United States has already slipped into a position of relative inferiority in the areas of strategic nuclear forces and theater nuclear forces."

"The House report notes that this is the first time that any U.S. government official has ever made such an admission."

It has been generally known that we have been at a disadvantage to the Soviets in ground forces for many years, and recently our naval and air posture has deteriorated vs. the USSR.

We had better not get into a "Come As We Are War" with the Soviet Union in 1980.

We had better stop politics-as-usual and get on with a major re-armament program as rapidly as possible. The first and most important responsibility of our government is to keep our people free and to preserve our heritage for future generations. Food stamps (\$11,000,000,000 in 1980), *et al.*, are nice, but bread and circuses did not sustain the glory that was Rome.

EXXON'S NEXT PREY

Mr. BIDEN. Mr. President, I would like to bring to the attention of my Senate colleagues a very interesting cover story in the April 28 issue of *Business Week*. The article, entitled "Exxon's Next Prey: IBM and Xerox," documents that Exxon, one of the country's largest energy corporations, has spent over half a billion dollars over the last few years to launch, support and now consolidate 15 separate ventures into the growing office-equipment industry. I feel that the information revealed in this article has important implications which ought to be considered by every Member of this body.

A short time ago, the Congress was embroiled in one of the most intensely-fought lobbying efforts that I have seen in my 8 years in the Senate. The object of that struggle was the fate of billions of dollars that would be coming into the treasuries of American oil companies over the next 10 years as a result of the decontrol of domestic oil prices and the market manipulations of the OPEC cartel.

During our debate on the windfall profit tax, I supported a strong tax as the only way to recapture for the hard-pressed consumer some of the dollars that they are paying out for the energy they rely on for their homes and their jobs. I also believe that the windfall prof-

it that Congress enacted left the oil companies more than sufficient revenues—and incentives—to fund explorations for new oil and natural gas sources and for the development of alternative energy sources. Lobbyists against the windfall profit tax maintained that the energy corporations needed the additional revenues resulting from decontrol to invest in energy production that could protect this Nation from replays of "energy crisis."

Now we can read in *Business Week*, a highly respected national magazine relied on by the American business community, that at least one major energy corporation is using its massive profits to move into nonenergy industries. Let me quote what I see as the heart of the article:

For nine years, Exxon has been spending venture capital funds to seed a host of new ideas in office automation as well as to find new energy sources. And for nearly as long, the information processing industry has speculated about and worried over—what Exxon was up to. Until now, Exxon executives have labeled their ventures into electronics as separate, speculative investments, and they publicly ignored the scenarios laid out by analysts of a grand Exxon plan for assaulting the office market.

But the picture has changed suddenly and dramatically. The recent creation of Exxon Information Systems (EIS), the company's tightening grip on its many little start-up companies, and its major drive to recruit senior executives from other information processing companies has brought this diversification activity out of the closet. And the oil giant is finally confirming what it aims to do: become a major supplier of advanced office systems and communications networks within three to five years.

This article goes on to underline that nearly all of these Exxon ventures have operated often in the red, relying on Exxon's oil and natural gas profits to survive, and to fund innovation and expansion. Clearly, cash to back up these ventures are not a problem for the parent corporation, which took in nearly \$2 billion in profits in the first quarter.

Mr. President, my purpose is not to excoriate the Exxon Corp. or its managements for these ventures. The company executives are doing what every business student in this country is taught to do: Diversifying, investing profits in new and growing industries. In ordinary circumstances, such a course of action would be no more than sound business practice. But the circumstances, given the Nation's energy situation and imperiled economy, are not ordinary, and this course has implications which the U.S. Senate is obliged to consider.

The profits of Exxon and other energy corporations are up, not because of their own business acumen and innovation, but because of the ill-considered decontrol of domestic oil and natural gas prices in conjunction with galloping inflation and the artificial hikes foisted on the world by the OPEC cartel. The windfall profit tax was designed to ease the injustice of asking the American public to pay substantially more when they were not getting substantially more. During debate on the tax, the oil companies urged that their excess profits were vital to their

continued efforts to find new oil and gas reserves and to develop alternative technologies that could protect this country against the energy crises we experienced in 1975 and again last summer.

But trends such as the one examined in *Business Week* would indicate that the energy corporations are plowing their excess profits, not into energy development, but into unrelated industries. This kind of action has negative effects on two fronts:

First, as I have pointed out, it undercuts the pursuit of alternative technologies and renewable energy resources that this Nation not only should have, but must have, to maintain its national security, its independence in foreign policy, and its economic stability over the next two decades. Congress has committed a major portion of the revenues from the windfall profit tax to the funding of research in alternative energy; it seems that the energy corporations might be able to see the need for such development.

Second, the forays of energy corporations into nonenergy enterprises have grave implications for every other American industry in these times of recession and economic uncertainty. Can we, in conscience, stand back and allow the oil companies to use the excess profits they have been handed to compete with other American businesses—in the case of this article, IBM and Xerox, two of America's largest enterprises? In this difficult economic period, Exxon's competitors in the office-equipment field point out, that corporation's greatest asset may well be its vast cash reserve that buffers it against the uncertainties of the marketplace and enables the company to buy its way into the market.

The Congress has a responsibility to prevent that resource from being used at the expense of American businesses and the American consumer. We must support measures, such as the Energy Anti-Monopoly Act, which attempt to insure that the monetary resources the oil companies garnered from their windfall profit will be used where they are most needed—and where the energy corporations said they would use them—in energy development.

Mr. President, I ask that the text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

EXXON'S NEXT PREY: IBM AND XEROX

Many people—including, perhaps, some of Exxon Corp.'s own employees—would be surprised to learn that the giant oil company sold nearly \$200 million worth of office automation equipment last year. With corporate sales soaring to \$84.8 billion, even Exxon's bookkeepers could be forgiven for overlooking that kind of small change. But this embryonic business might very well represent both the future of the nation's largest energy company and a powerful new challenge for the leadership of the burgeoning information processing industry.

For nine years, Exxon has been spending venture capital funds to seed a host of new ideas in office automation as well as to find new energy sources. And for nearly as long, the information processing industry has speculated about—and worried over—what Exxon was up to. Until now, Exxon executives have labeled their ventures into electronics

as separate, speculative investments, and they publicly ignored the scenarios laid out by analysts of a grand Exxon plan for assaulting the office market.

But the picture has changed suddenly and dramatically. The recent creation of Exxon Information Systems (EIS), the company's tightening grip on its many little startup companies, and its major drive to recruit senior executives from other information processing companies has brought this diversification activity out of the closet. And the oil giant is finally confirming what it aims to do: become a major supplier of advanced office systems and communications networks within three to five years. "We intend to be the systems supplier to the office market," declares Hollister B. "Ben" Sykes, who is in charge of pulling these operations together as senior vice-president of Exxon Enterprises Inc., the corporate parent of EIS.

Such brash words from a \$200 million office equipment company could easily be taken for hype by office equipment giants such as International Business Machines Corp. and Xerox Corp. IBM earned \$3 billion on revenues of \$23 billion last year, while Xerox had net profits of \$583 million on \$7 billion in revenues. But when that determination comes from a company with \$49.5 billion in assets, 1979 net profits of \$4.3 billion, and sales that approach the gross national product of Mexico, such utterances take on a more serious meaning.

Creating a cohesive organization out of the 15 independent, entrepreneurial companies that make up EIS is a formidable management task, however, no matter how much money a corporation has. "Exxon Enterprises has the right pieces for the office of the future," says an Exxon consultant for the industry, "but they don't have the management to make it come together." John F. Cunningham, executive vice-president of Wang Laboratories Inc., a high-flying Lowell (Mass.) competitor, puts it even more strongly: "If God himself came down in a junior businessman's uniform, worked very hard for three years, and got very lucky, he'd still have a tough time pulling those companies together."

But no matter what industry executives say about the difficulty of Exxon's job, most of them are very concerned about Exxon's virtually unlimited resources. IBM, which accounts for the major share of the world's data processing business, will not comment on Exxon as a competitor, but its executives are watching Exxon warily. Although IBM denies it, some industry watchers are convinced that the company recently moved up the introduction date for an electronic typewriter after Exxon made a big splash with an innovative model aimed directly at IBM's product line.

Taking on IBM in the electronic typewriter market will require vast amounts of money. Last year alone, Exxon lost as much as \$30 million in this single thrust, according to industry observers. But EIS has sufficient resources, through financing from its corporate parent, to develop or acquire virtually any type of technology deemed relevant to its goals, concludes a new study by Yankee Group, a Cambridge (Mass.) market research firm. And a growing number of observers believe that the money will be forthcoming. Access to such large amounts of capital would give Exxon an important advantage over other vendors. Many companies that are truly innovative simply cannot make a significant impact on the office systems marketplace without getting outside financing.

Sykes now leaves no doubt that Exxon is going after the leaders. While he acknowledges that the office automation business will always have viable "niche" companies serving a narrow market segment—the direction that his ventures had been taking in typewriters, for example—Exxon is beginning to combine

its ventures into a single operation that will take a total systems approach to the market. "A systems capability, which will permit us to deliver a total system to the large customer," Sykes says, "will be necessary for a large company's competitive survival."

This evolving strategy, coupled with Exxon's financial muscle, is beginning to look like an almost unbeatable combination to some industry experts. "It seems likely that the [office system] business they are building now will rival, if not surpass, their oil business ultimately," predicts Stephanie B. Biguskiak, an industry analyst who worked on the Yankee Group study.

For Exxon shareholders, however, the move toward the office systems market will have little significance in the short run. "The base of oil and gas operations is so big that even if [the information business] is spectacularly successful, it won't make much difference for a long time," notes Phillip L. Dodge, an energy analyst at Donaldson, Lufkin & Jenrette Securities Corp.

For now, at last, Exxon's top management is not prepared to acknowledge a scenario that calls for information processing to become Exxon's No. 1 business. Chairman C. C. Garvin Jr. recently told shareholders that "Exxon is and will remain primarily an energy company." Ulric Well, vice-president at Morgan Stanley & Co., says: "I don't think Exxon senior management has even focused on the idea that the office automation business might be bigger than the oil business [or that this is] a realistic possibility." He and other industry analysts believe there is a good chance, however, that Sykes and the other managers at Exxon Enterprises have considered the possibility.

A change like that could not come about until the 21st century, but Exxon and the rest of the oil companies spend much of their planning time on such far-reaching strategies. It has long been obvious to the oil industry—and many others—that any business based on a rapidly shrinking natural resource is not a long-term proposition. For years now the oil companies have diversified into other energy sources such as coal and nuclear power. Exxon is no exception—in fact, it is leading the way in changing from a traditional oil and gas company to a broadly based energy company. In 1980 alone, the company is spending \$7.5 billion on capital improvements and exploration that will include substantial investments in everything from coal, oil sands, and oil shale to synthetic fuels.

But growth in office automation markets that may be trivial—in the 1980s—to the largest U.S. energy company would be highly important to the information processing industry. Exxon's revenues in this business already place it among the top 25 producers. And these revenues are soaring. "We've been doubling in revenues each year," Sykes says, and he expects that they will almost double again this year to near \$400 million. "We still expect to reach a billion dollars in revenues within the next few years, and we'll definitely have good profitability by then," he says.

By the end of the 1980s, Biguskiak of Yankee Group predicts that "the Exxon information companies could produce \$10 billion to \$15 billion in revenues." That may not amount to much in barrels of oil, but in advanced office systems such volume would undoubtedly move Exxon to the top tier of vendors, with as much as 10 percent of the market. By that time, Yankee Group expects that the total information processing industry will be worth \$150 billion to \$200 billion annually.

Exxon has been developing products in its own laboratories and making venture capital investments in markets outside petroleum since the 1960s. Some did not pan out—artificial food and factory-built housing, to name two. But in the 1970s, Exxon Enterprises, the venture capital arm, began

making investments in new technologies and new business opportunities in information processing. "Exxon looks for two things in a company, technology that will be around in 10 to 20 years and a product capable of producing \$100 million [in annual revenues]," says Fred S. Lee, founder and president of Magnex Corp., an Exxon venture in San Jose, Calif., which is developing a way to cram more computer data on magnetic disks at less cost.

So far, Exxon has invested \$500 million or more in 15 ventures that are now being grouped together as EIS. Eight of the companies have products on the market, and one is about to make its commercial debut. The first sign that Exxon was going after IBM and Xerox in the office-of-the-future market came last year when advertisements appeared that grouped the four largest of these companies under the EIS banner. Until then, they had all operated autonomously. The four are Vydec Inc., a pioneer producer of text-editors with display screens; Qwip Systems Div., the leading U.S. producer of telephone facsimile units; Qyx Div., which is taking IBM head-on with its Intelligent Typewriters; and Zilog Inc., a leader in the fast-growing microprocessor business.

Now, as a first step toward a single systems company, Exxon plans to combine the marketing operations of Qwip, Qyx, and Vydec into a single sales force. But Sykes cautions that "we're just in the planning phases to determine what the most effective approach might be."

The other four companies marketing a product are Periphonics Corp. with its voice-response system, Dialog Systems Inc. with its voice-input system, Delphi Communications Corp. with its voice-message system, and Optical Information Systems, which turns out semiconductor lasers for use in optical fiber communications networks. And later this year, InteCom Inc. will introduce a switching network to handle both voice and data—the "glue" to connect all the Exxon products into a single system.

Six EIS companies are still in the development stage and are working on such advanced products as flat panel displays, new data storage devices, high-resolution non-impact printers, microcomputers, and an advanced work station capable of doing everything from word and data processing and data-base accessing to electronic filing and mailing.

All of these products and technologies fit neatly into the office-of-the-future scenario, which will combine data processing and word processing in one office system. Instead of stand-alone typewriters, paper files, and separate telecommunications, the office will evolve into a data communications network that will connect word processors, data processing terminals, telephones, and shared electronic files. This automated office will not come overnight, but by the end of the 1980s it is expected to be larger than today's data processing market.

Exxon's strategy seems to be the Xerox "supermarket" approach—providing customers with everything they will need in office automation products. An Exxon customer could start with Intelligent Typewriters, move up to word processors, go to advanced work stations, and back them up with fast printers, facsimile receivers, and electronic files. This collection of office equipment could be hooked together locally by an Exxon computer-controlled network.

"There are only one or maybe two other companies that have all the pieces that Exxon has," says Howard M. Anderson, president of Yankee Group. "And even those two—IBM and Xerox—don't have them in the quality and quantity that Exxon has."

But even Sykes acknowledges the tough job he has ahead in assembling the pieces. Although EIS is taking its first step toward combining the three companies making up

the office systems segment of its operations, the strategy for pulling together the communications and components parts of the company is, according to Sykes, a long way from being decided. More pieces may be needed to fill in the puzzle, Sykes says. Communications is one area, he adds, in which parts may be missing.

None of the 15 ventures turned a profit last year. Sykes expects four of them to hit the black this year, but he concedes that revenues will reach \$1 billion before EIS, as a whole, becomes profitable. But early profitability is not a goal, Sykes insists. If it were, he says, several of the companies would have been in the black now. "Our objective," he says, "is to grow a business that is viable in a competitive marketplace with very large corporations. We're not out to build a flower that blooms and then has to be acquired by somebody else to survive."

Exxon management believes that it has plenty of time to create an effective, integrated systems company because no one else is nearer than EIS to supplying a total system for the office. "Right now," Sykes says, "it's not clear just what that system is or how it is going to be sold to the customer." IBM and Xerox, in fact, have taken longer to move in this direction than most observers had expected. But a rapidly growing group of smaller companies—led by Wang, Data-point Corp., and others—are moving faster.

"Exxon doesn't have forever to get organized," maintains Amy D. Wohl, a Haverford (Pa.) consultant. "In the next few years there are going to be a lot of significant announcements in office automation, and unless Exxon does something soon, they might not be one of the first ones in there."

Speedy decision-making is not an EIS forte, according to some of its managers and former managers. "They like to strike oil and leave it there like money in the ground," observes one manager. "But with companies like they're acquiring, you've got to move or you'll miss the market window." Says Ralph K. Ungermann, former executive vice-president at Zilog, who resigned a year ago to start his own company: "The speed at which Exxon moves is incredibly slow. It can take a year to get approval for a strategy change."

Another area of activity that EIS is beginning to integrate is research and development. Until now, all of the companies did their R&D independently. Soon they will begin to share work at R&D centers that will focus on EIS's four business areas: office products, computer systems, communications, and components. The goal is to develop products along more similar lines than in the past, since compatibility—the ability for one piece of equipment to work with another and share the same software and memories—will become essential as computer-like work stations proliferate in the office.

Compatibility is old stuff to such companies as IBM, but it is something that Exxon still has to learn. For example, the floppy disks that store data on Qyx's electronic typewriters are not interchangeable with the "floppies" on Wydec's word processors.

Exxon's current investment in R&D for office equipment is still peanuts compared with what IBM and Xerox are spending. Last year, Exxon spent only \$47 million for R&D not related to its energy, chemical, and mining businesses, with most of that amount spent by its office equipment ventures. In contrast, Xerox invested \$376 million last year, mostly in office products, and IBM spent a tidy \$1.4 billion. "When you think of the resources that IBM throws into integrating its products, I can't see how Exxon can hope to be competitive," says one word processor executive. On the other hand, if Exxon starts diverting some of its massive cash flow to office R&D, the picture could change quickly. "Exxon is now moving faster, and we're

watching very closely," says one customer.

Integrating the products from 15 companies will be difficult enough, but integrating the independent-minded entrepreneurs into a single systems company could prove to be the single largest obstacle that Exxon faces. The greater the degree of corporate integration, observers agree, the greater the risk that these managers on whom Exxon depends for technological innovation will resign.

Ungermann is one of four founders from the eight EIS companies marketing products who have resigned in the past year. "I left strictly on the question of independence," he says. Says one competitor who turned down a top management post at EIS: "All of these companies are still personality driven. It's going to take a while to change the entrepreneur into a middle manager, if at all." But Exxon has no choice if it wants to compete with IBM and Xerox.

To help carry out this transformation, Exxon brought in Robert A. Winslow, the president of Exxon Chemical Co., to take the top spot at Exxon Enterprises. In the year or so since his arrival, Exxon Enterprises has begun to manage more of the entrepreneurs' activities from its New York headquarters. It is installing its own people in financial positions at many of the free-spending ventures and is sending in auditing teams to back them up. "It's a full-time job just filling out all the forms Exxon wants," grumbles Stephen Moshier, a founder of Dialog. He also complains about trips to Exxon headquarters in New York for long-range planning meetings and budget forecasts. "It's run like a big company now," he laments.

Sykes and Winslow intend to keep it that way. Their aim is to build a company that closely parallels Exxon Corp.'s decentralized management structure. In that way, they hope to foster the entrepreneurial spirit in the operating companies but curb the tendency of the managers to run off in all directions. Sykes compares the process with what the 13 U.S. colonies went through when they assembled as separate states held together by a central government. The EIS ventures "won't be as independent as they were," he acknowledges, but "we hope to balance that with the additional opportunity that will be provided by having the resources of the other companies as well as Exxon Corp."

RAIDING COMPETITORS

The executive suites at the various EIS ventures are, however, still in an uproar over the changes Exxon is making. James B. Scott, one of Delphi Communications' founders, resigned to join another company after his title was changed from director of systems engineering to a senior systems engineer. "I was told it was an oversight, but it was never corrected," he says. "Face it, Exxon doesn't need a lot of funny founders like me floating around." And in April, three members of Peripherals' top management resigned after Exxon had acquired the remaining 20% of the company that it had not owned. This left the executives with no equity stake in their company—a key motivation for entrepreneurs.

A number of former EIS venture managers charge that Exxon is picking and choosing among its managers for those it wants for the larger company, forcing the rest to resign. One way that Exxon is doing it, venture managers say, is by reducing the stock incentives available to some managers without providing another form of long-term compensation. In the early days, venture managers were given good stock options to compensate for the dilution of their stock when Exxon bought in. "Now," says one disgruntled manager who plans to resign shortly, "they're not willing to let the individual manager have as big a piece of the action as before."

Warns one former EIS manager: "They cannot motivate their current managers this way, and if they're not careful, they will kill the very spirit that they built upon." This prospect, however, does not seem to worry Sykes. He claims that EIS is doing a better job of holding its talented people than are most companies in this business. Sykes says that the people who have left EIS did not feel they were capable of managing a large operation. "If they want to learn the art of management," he adds, "then I believe they will stay with us."

To help get its EIS management house in order, Exxon has been raiding its competitors—IBM and Xerox in particular—for executive talent. In the past three months alone, it has hired 50 managers away from IBM, estimates one executive recruiter. The big prize in this IBM raid was Robert A. Contino, former vice-president of plans and requirements for IBM's Office Products Div., whom many observers had marked as a future candidate for the top spot there.

Such IBM-trained managers, however, could have trouble adjusting to Exxon's unstructured environment, some observers believe. And they could also increase the friction between Exxon and the founders of many of the ventures. "I left IBM and Xerox because I wanted my fingerprints unblurred on something," declares Jay H. Stoffer, a founder of Delphi. Asks one industry expert: "How is the entrepreneur going to react when one of these ex-IBMers, who is used to policies, controls, and procedures, comes in and says, 'here's how you're going to do your business plan'?"

The problem of losing entrepreneurs is compounded by the fact that, in the tightly knit companies that they usually run, their departure can trigger a host of other management defections. And in such high-technology businesses, the company assets often reside in the heads of its employees.

By some accounts, this is what happened at Zilog when Ungermann's departure was coupled with the appointment of Manuel A. Fernandez, an Exxon Enterprises executive, as group vice-president. In just a few months, two division managers and two vice-presidents had resigned. "They had all been promised that Exxon would not be running things and that Fernandez would not be hired," recalls one insider. "There was a big fight, and only the director of personnel stayed on."

Despite the loss of so many key people, Federico Faggin, president and co-founder with Ungermann at Zilog, insists that Zilog is in better shape than ever. Faggin is highly involved in the EIS plan to consolidate its companies, according to observers. And managers such as Faggin, who are privy to Exxon plans, fully support the moves.

Patrick P. de Cavaignac, the president and founder of Wydec, is one of those boosters. He anticipates playing a key management role in the reorganized EIS. "The advantage to be gained from the proper utilization of Exxon's resources, in terms of putting together a larger organization that makes us more competitive against our larger competitors, is obvious to any of us," he says.

UNDENIABLE POTENTIAL

But outsiders point to de Cavaignac as the perfect example of the kind of problem that Exxon faces in building a larger company from an entrepreneurial base. Under his leadership, they say, Wydec has marketed the same word processor since 1974. And the company has still not begun to ship a new model announced last June. In the past two years, market researchers estimate, Wydec has slumped from No. 3 to No. 7 in shipments of word processors with display screens. Says one competitor: "If there is one thing Pat de Cavaignac is good at, it is starting with nothing and building something. One thing he cannot do," he maintains, "is run a business once it gets above \$5 million."

Other industry experts see Vydec's disappointing record as a signal that Exxon still does not yet have a handle on the office systems market. The big advantage that such companies as IBM have is their "all-important distribution system," says George M. Ryan, the chairman of Cado Systems, Inc., a California maker of small business systems. "Judging from what Exxon has done with Vydec," he says, "I don't think they understand the merchandising task."

But even Exxon's greatest detractors do not underestimate the energy giant's potential for success in the office of the future. Although Exxon must get around some major obstacles in pulling itself together as one systems company, they acknowledge that the company is unlikely ever to face the kind of cash problems that recently sent IBM to the financial markets looking for more than \$1 billion. "One thing Exxon has," says one competitor, "is a lot of cash. And that's one thing this market is going to need."

FINANCING SALE OF BOEING JETS

Mr. HEINZ. Mr. President, I rise to report to my colleagues the results of a deeply troubling inquiry conducted by the Senate Banking Committee.

Mr. President, the Senate Banking Committee, on which I serve, yesterday completed 2 days of hearings concerning the loan commitment made by the Ex-Im Bank to finance the sale of Boeing jets to Ansett Airlines of Australia, which is owned by Rupert Murdoch. As my colleagues are no doubt aware, the circumstances surrounding the granting of the loan, as well as the substance of the loan itself, have raised questions concerning whether extraneous political considerations may have been involved in this matter.

I have been from the outset especially concerned about the following matters relating to the Ansett financing:

Procedures followed by the Eximbank. The substantive result reached by the Bank Board.

The role that the Chairman of the Eximbank played in the financing process.

The credibility of the Ex-Im Chairman, and the implications of this lack of credibility both for the substance of this matter and for the future of the Eximbank.

Let me elaborate on these concerns and discuss what we have learned from our hearings.

PROCEDURES FOLLOWED BY THE EXIMBANK

It now seems beyond doubt that the Eximbank Board did not follow usual and routine procedures during the initial period of consideration of this loan. For example, there was no recommendation from the Eximbank staff on this matter, and I would agree with my colleague, Senator STEVENSON, who observed that the probable reason that there was no recommendation made, or requested, is because the whole deal "smelled."

Even more disturbing is the inescapable conclusion that the Eximbank apparently does not even have an institutionalized mechanism for assuring a critical review of applications—at least major ones which, as in this case, involve hundreds of millions of dollars—to assure that all questions are fully considered, and all alleged facts fully verified.

For example, one of the most crucial factors of this case, and a factor repeatedly stressed by Chairman Moore as a justification for hasty action, was the alleged firm deadline for action. Yet, my own interrogation has led me to the inescapable conclusion that Chairman Moore was probably—looking at it charitably—conned by shrewd negotiators, and that he did not exercise, or caused to be exercised by others, the necessary diligence to ascertain the true situation with respect to this, and a number of other factors relating to the loan deal. I will note only one here—the inexplicable failure of the Board to call upon its own investigative team for a formal presentation concerning its perspective on the merits of the proposed loan.

SUBSTANTIVE RESULT REACHED BY THE BANK

With respect to the substantive result reached by the Bank, I do not think that the Board offer met the standards which it itself acknowledges should adhere to any of its loans—that it match not exceed competitive offers. The weight of the testimony indicates clearly that the Board went beyond what was required in this situation, even in its final position. Of course, this is to say nothing of the original position which Chairman Moore sought to rush through the Board with little consideration.

Mr. Moore stated that he felt confident that he made the decision on the basis of the best available facts. Yet, he began the Board decisionmaking session by proposing a \$656 million loan at 8-percent interest for 25 planes at a time when the European competition had only offered 4 planes, worth \$160 million, at a foreign currency equivalent of 9.25 percent, according to the U.S. Treasury's best estimate.

The preponderant weight of evidence leads me to agree with the Treasury assessment that "matching the dollar rate at 9.25 percent would certainly be acceptable to all logical and reasoned human beings."

I realize that it is easy to second-guess; and I also acknowledge the long record of the Board in making excellent business decisions. But that is why this particular example of such poor judgment is so puzzling. I cannot help but conclude from the evidence presented thus far that the Chairman of the Board, Mr. Moore, played the key role in this matter, and clearly is the individual whose role must continue to be very closely examined if we are to reach any valid conclusions about this whole matter.

ROLE OF CHAIRMAN MOORE

As ranking member of the subcommittee which oversees the Eximbank, my conception of the role of the Chairman of the Board is that of a vigorous advocate of the expansion of U.S. trade overseas as a general principle—but—that of a critical reviewer of specific proposed business deals. The evidence available leads me to conclude beyond doubt that Mr. Moore, in this case, did not act as a critical reviewer, but rather as a vigorous advocate for a special interest—and that was, and is, simply wrong.

The transcript of the Exim Board

meetings is replete with examples of Mr. Moore as an advocate—and not a single instance of Mr. Moore as a critical examiner. We are fortunate to have on the Board critical thinkers such as Mr. De St. Phalle and Mrs. Kahliff, who insisted that the original proposal be more closely examined.

Again, Mr. Moore, as the Chief Administrator and Manager of the Bank is the person who can justly be charged with a failure to discharge his responsibility to establish, or insist upon the implementation of, procedures which would assure the kind of full and critical review of the proposed loan package which is absolutely necessary in a situation such as this.

Chairman Moore's conduct has raised dark clouds of suspicion. His generosity to Rupert Murdoch and his enthusiasm for the Ansett/Boeing position is well documented, and remarked upon by his fellow Board member as being totally out of character. It is all the more questionable because the Bank, of which he is chief executive officer, is on shaky financial ground for this year—Eximbank could very well be out of lending authority only two-thirds of the way through the year—and Congress and the administration have given every indication that the Bank would have to husband scarce resources for the foreseeable future.

Chairman Moore appears to have been, at best, a pawn of outside interest and, at worst, a willing agent for them. The latter would clearly violate his responsibility to the Bank.

He seemed completely and utterly convinced of the veracity of the February 29 deadline set by Rupert Murdoch, and yet he acknowledged that he dealt with Jack Pierce of Boeing on a regular basis—as the Bank's best customer—and that the "fast shuffle," the "bum's rush," and the "push, push, push," negotiating technique were by no means unknown to the Chairman and his colleagues.

Finally, we have another situation where Chairman Moore clearly exceeded his authority—and in this instance his responsibility to his fellow Board members, when Mr. Moore instructed his assistant, Mr. Peacock, to give Mr. Murdoch a moral commitment to match further Airbus offers. This action clearly went beyond the Board's decision in the Ansett case as understood by the other Exim Board directors. Likewise, the original letter of intent for the loan went beyond the Board's decision, and had to be revised by Director de St. Phalle in order to avoid giving Rupert Murdoch additional leverage with which he would be able to obtain further Exim loans at equally low interest and high coverage.

CREDIBILITY PROBLEMS AND THEIR IMPLICATIONS

In addition to the concerns I have regarding Mr. Moore's conduct at the time of the loan transaction, our hearings have raised additional questions of a separate, but equally serious, nature. These questions go not to the substance or procedures surrounding the loan, but rather to the credibility of Mr. Moore's explanation of the factors influencing his decisions and actions in this matter. Let me recount the most serious of the credibility problems that Mr. Moore has created.

Mr. Moore originally denied that he knew who Rupert Murdoch was prior to his February 19 meeting with him; and then suddenly remembered that he did, in fact, know, when confronted by a memo from Jack Pierce of Boeing, spelling out Murdoch's other relevant affiliation with the New York Post. This memo also noted that Murdoch was going on to the White House afterward. How many of Mr. Moore's other applicants also happened to be going to the White House, so that facts like that just slip his mind? One's credulity is stretched to the breaking point.

In other testimony, Mr. Moore denied he even knew of the possibility of the Boeing sale to Ansett when he had dinner with his former law partner, Ambassador to Australia Philip Alston—a man both close to Carter and a major booster of U.S. exports—on February 4. The fact is that in his testimony Mr. Moore went out of his way to hide the possibility that the Boeing deal could have been discussed at the Alston dinner, even though he subsequently admitted under questioning that he had known of the Boeing-Ansett negotiations in January as a direct result of contact by Boeing. One can only assume that there was a reason for his unsuccessful disassembling and that the deal was discussed.

CONCLUSION

The issue of Mr. Moore's credibility was present before our hearings began. Unfortunately, the actual hearings have made the credibility issue even more serious, rather than less, as we had all hoped. I must say candidly, that the hearings have increased, not decreased, my initial concern that political factors may well have influenced the decisions reached in this case.

As I said at the outset of the hearings, I think that—in this time of cynicism about the American system—it is vitally important to reassure the public that our basic institutions function well and impartially, and that is why it remains important to both find out the full truth in this matter, and to take whatever action necessary to assure that the credibility of the Eximbank is completely restored. To further this goal I am making this report to my colleagues, Mr. President, on what I believe to be the salient points of our inquiry.

ALABAMA'S "SAFE STATE" PROGRAM

Mr. STEWART. Mr. President, in light of the continuing debate over the effectiveness of OSHA, I would like to bring to your attention a program which is providing positive incentive for Alabama's businesses to maintain good worker safety standards. "Safe State" is a confidential consulting service which informs businesses of existing hazards and advises them how to avoid future safety problems. Their efforts in this area are unique, for in working to improve and maintain a safe working environment, they also pay great attention to improving business efficiency. Safe State has won the confidence of the business community by showing them

that worker safety is not totally at odds with business efficiency and cost minimization. I am submitting for your information a letter to the Assistant Secretary for Occupational Safety and Health, Eula Bingham. I hope that my colleagues will take time to learn more about this program, particularly in view of upcoming OSHA legislation.

I ask unanimous consent that the letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., May 8, 1980.

Ms. EULA BINGHAM,
Assistant Secretary for Occupational Safety
and Health, Washington, D.C.

DEAR Ms. BINGHAM: I would like to alert you to an excellent occupational safety and health program currently aiding Alabama's businesses and workers. Operating out of the University of Alabama's College of Engineering, the "Safe State" program provides confidential consultation to small businesses regarding accident and illness prevention in the workplace. In addition to pointing out existing hazards and conditions which fail to comply with federal worker safety requirements, Safe State informs management of potential hazards in the business, advising them how to correct and avoid future problems.

In the last two years, Safe State has provided consultation services to 1,376 businesses. These businesses employ over 110,000 workers now experiencing the benefits of a safer working place because of the removal of approximately 16,000 hazards. It is significant that this improvement in worker safety conditions was obtained with a no-penalty, voluntary compliance approach; it has achieved good worker safety conditions at a minimum of time and cost for both OSHA and businesses, and without the antagonism which unfortunately accompanies much OSHA-business interaction. Through sensitivity to business' concerns of productivity and efficiency, Safe State has gained the confidence of the business community and has shown that high worker safety standards can be maintained without sacrificing productivity.

I hope that you will remember this program as you continue to strive for optimal worker safety conditions. If you have further questions or comments concerning any aspect of Alabama's Safe State program, please do not hesitate to contact me.

Sincerely,

DONALD W. STEWART,
U.S. Senator.

CHARLES CLINTON SPAULDING (1874-1952)

Mr. HELMS. Mr. President, I want to pay my respects to a remarkable North Carolina businessman, the late C. C. Spaulding, one of the early builders of the North Carolina Mutual Life Insurance Co.

Mr. Spaulding was recently elected a 1980 Laureate to the Junior Achievement Hall of Fame of Business Leadership by the board of editors of Fortune magazine—the first black to be so honored.

As most of you know, junior achievement tries to give high school students an opportunity to participate directly in business enterprise they set up and control themselves with the help of local

businessmen. The program has been in effect for 61 years, and many of today's businessmen got their start in junior achievement.

Six years ago junior achievement founded its Hall of Fame for Business Leadership in order to give students career models. Mr. Spaulding is one of some 57 American business leaders who have been elected to the Hall of Fame.

Mr. President, a recent edition of Fortune magazine carried a story on the life of Mr. Spaulding. I ask unanimous consent that it be printed in the RECORD, as a reminder of the miracle of the free enterprise system.

There being no objection, the article was ordered printed in the RECORD, as follows:

CHARLES CLINTON SPAULDING (1874-1952)

In all the fifty-three years that he spent building up North Carolina Mutual Life Insurance Co. from a one-man shop to the largest black company in its field, C. C. Spaulding rarely went anywhere without stuffing his pockets with company literature. His seatmate on the train to Washington or the man pumping gas into his Packard would get a dose of Spaulding's missionary zeal. For him, North Carolina Mutual wasn't just a successful business. Through the difficult years of the post-Reconstruction South, it was a proving ground for talented young blacks and the vital financial infrastructure on which hundreds of other black enterprises depended. Today, with assets of \$185 million, the Mutual has more than fulfilled Spaulding's dream that it be a beacon of black pride.

One of fourteen children, Spaulding was barely literate when he migrated to Durham from rural Columbus County at the age of twenty. So he went back to school, towering over classmates half his age and working after hours as a dishwasher, bellhop, and waiter. When his uncle, a Durham physician, hired him to manage an insurance association that had sprung from the black "burial societies" of the day, Spaulding found the policies tough to sell—until the first policyholder died and Spaulding scraped together the \$40 needed to pay the claim. Brandishing the receipt as evidence of financial integrity, he signed up a sales force (mostly schoolteachers and ministers at first) that eventually covered sixteen states. A bank, a fire-insurance company, a bonding company, and a building-and-loan association were organized later—all offering financial services never before available to blacks.

As Spaulding hired increasing numbers of bright college graduates, a black intellectual community flourished in Durham. When Asa Spaulding, a young second cousin back home in Columbus County, showed an unusual ability with numbers, Spaulding had the Mutual send him north to college to become the nation's first black actuary in time to make North Carolina Mutual solid enough to survive the Depression.

To blacks, Spaulding preached self-help, and to whites, cooperation. But he insisted that cooperation "does not mean Negroes do the co-ing while whites do the operating."

AMERICAN SKYDIVERS AT THE NORTH POLE

Mr. HELMS. Mr. President, two North Carolinians were members of a skydiving team which, on May 2, executed the world's first parachute jump onto the North Pole. These two young men, James Crook, of Cary, and John Ainsworth, of Charlotte, are to be congratulated for successfully completing this northern-

most skydiving expedition. I admire their adventuresome spirit and their courage.

Several articles have been written about the feats of this expedition. One of them was published on April 17 in the Raleigh News and Observer. It was written by Dennis Rogers, one of the most talented and entertaining columnists in American journalism today. Another was written and distributed by United Press International.

I ask unanimous consent that both be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Raleigh News and Observer, Apr. 17, 1980]

THEY'LL TAKE A CHILLY JUMP FOR MANKIND (By Dennis Rogers)

Adventuring just ain't what it used to be. There was a time when a person going to the North Pole made headlines around the world and was hailed as a great explorer of the unknown.

Now consider this: Last year a Las Vegas philosopher named Jack Wheeler led an expedition to the North Pole that included two women in their 80s. They flew by commercial jetliner to Canada and took a chartered plane to the top of the world. They landed, broke out champagne and caviar, had a snort and a nibble and flew home.

Which goes to show that you have to look hard to find real adventure these days. James Crook has found one.

Crook, a 25-year-old student at N.C. State University, is a sport parachutist. That by itself is more than enough thrills for us earthbound folks, but Crook has found a new way to get the blood pressure perking.

This month, Crook and a handful of other similarly inclined skydivers plan to parachute onto the North Pole, something that has never been done.

"I first heard about it when a friend of mine in Charlotte called me to ask help in raising the \$7,000 it will take," said Crook, a Cary resident.

"I told him I'd help, but the more I thought about it the more I got interested in it. They had an opening on the expedition team, and I was accepted. Now I've got to raise the \$7,000 for myself.

"This will be the first and probably the only real adventure I'll have in my life. I am really excited about it.

"People parachute all the time; it really isn't all that big a deal. But to be able to jump where no one else has ever jumped before adds some adventure to it.

"Beyond that I don't know why. I do know this is something I really want to do."

The expedition is being led by the same Jack Wheeler who led the little old ladies to the pole, but this trip won't be quite as plush.

There will be 10 jumpers, including Crook and his friend, John Ainsworth of Charlotte. Crook and Ainsworth plan to leave Raleigh April 25 to fly to Resolute Bay, Canada.

Until then, the trip will be in the rich excursion class, with fancy jets and luxury hotels. But once the jump team assembles in Canada, things will start to get a bit rugged.

From Resolute Bay, they will pile into a twin-engine, ski-equipped Otter aircraft for a flight to Lake Hazen on Ellesmere Island, above the Arctic Circle.

Practice jumps are scheduled for Resolute Bay and Lake Hazen, and after everyone has been checked out and supplies loaded, the team will leave April 29 or 30 to make the final flight to the Pole.

"We're doing it as a team," Crook said. "No one will get credit for making the first jump, all our names will be in the Guinness

Book of World Records as a team jump, but I really would like to be the first.

"I'm a pretty good size fellow (well more than 6 feet and well more than 200 pounds) and usually the biggest man goes out the door first. But if I'm second I plan to dive like crazy to be able to hit the pole first. Accuracy doesn't count, but if they mark the exact spot I plan to try and hit it."

If there is a good time to be jumping onto the polar ice cap at the top of the world, this time of the year is best. The sun shines almost 24 hours a day, and Crook says there is a 98 percent chance of clear skies. The ground temperature should be in the range of -20 to 10 degrees Fahrenheit, said Bill Skinner of the National Climatic Center in Asheville.

Once the historic first jump is behind them, the team plans to sample a little bubbly and fish eggs and then spend two days and nights camping at the pole.

Crook said he was busy trying to find sponsors to help provide the \$7,000 cost, but there is an even more important matter to be settled.

"I'll be leaving Raleigh after the last class of this semester," Crook said. "Which means I'll be at the North Pole during exams. Have you ever tried to tell a professor that the reason you have to miss exams is that you'll be at the North Pole?"

"They have heard a lot of excuses, but never that one."

NORTH POLE

(By United Press International)

A five-man American skydiving team has parachuted onto a frozen ice cap about 400 miles from the North Pole in the most northerly sky dive in history, it was disclosed today.

The team, led by Craig Fronk of Issaquah, Wash., included Mike Dunn of Carson City, Nev., Don Burroughs of Miami, Fla., James Crook of Cary, N.C., and John Ainsworth, of Charlotte, N.C.

The 17-man polar expedition, led by David Porter of Hope, N.J., and Jack Wheeler of Las Vegas, Nev., took off from its first base camp in a Dehaviland twin otter late yesterday but ran into fog and had to turn back 80 miles from the Pole, according to ham radio operator Richard Duane of New Jersey.

"The plane landed on a polar ice cap at 84 degrees north, 70 degrees west, where the expedition set up a base camp to prepare for the jumpers. At 9:18 P.M. EDT Thursday, the aircraft took off with the skydivers team and at 9:27 P.M., the skydivers jumped from the plane. They all landed safely at 84 north, 70 west at 9:36 P.M. making it the northernmost skydiving expedition ever completed," Duane said.

Reports on the skydive were delayed until today because magnetic storms knocked out communications.

Duane said expedition leader Porter described the weather conditions on the ice cap as "beautifully sunny, blue skies overhead and spectacular ice ridges."

After spending about six hours on the ice, the skydivers and other team members returned to Ellesmere Island aboard the ski-quipped plane, the expedition planned to return to Resolute Bay and to fly back to the starting point of the expedition, Edmonton, Alberta, Canada.

Other members of the expedition were George Dixon, a bank president from Minneapolis and William Belnecke, soon-to-be-retired president and board chairman of Sperry & Hutchinson Corp. of New York.

FARMERS FACE TO FACE WITH ECONOMIC CRISIS

Mr. HELMS. Mr. President, the farmers in America are facing their worst

crisis since the Great Depression. It has been estimated by some agricultural economists that as many as 25 percent of the Nation's farmers could face bankruptcy in the next 12 months.

The crisis for many smalltown businessmen who provide the goods and services to farmers and farm families is even worse. These small-scale entrepreneurs do not have access to the kind of credit available to farmers, and many of them may well go under even before the farmers they serve.

Mr. President, too many Americans fail to understand that farmers are the ultimate consumers. Farmers must purchase all of their inputs—the seed, fertilizer, fuel, equipment, and all the rest—at retail. They must sell their crops at wholesale. They cannot pass on their increased costs. For that reason inflation and the increasingly heavy burden of costly excessive regulation are devastating to farmers.

USDA estimates that farm income will decline by more than 35 percent this year. In 1979 net farm income was \$33 billion. USDA has reported that it is likely to be \$23 billion in 1980. And, it should be remembered that those \$23 billion 1980 dollars are worth some 13.3 percent less than the \$33 billion 1979 dollars. Farmers cannot absorb indefinitely the kinds of losses this dramatic decline in income represents.

If inflation is not brought under control, and if we do not significantly curtail the massive burden of unnecessary regulation on farmers and small businessmen, many will be eliminated from the economic spectrum. Farmers know that, and they cannot understand why the Congress refuses to address the causes of inflation with more than superficial posturing on budget resolutions.

Mr. Robert Delano, the recently elected president of the American Farm Bureau Federation understands the causes of inflation—and the cures inescapably necessary to bring it under control. Last week he wrote to me—and to other Senators—conveying the official position of the 3 million member families of the American Farm Bureau Federation. I commend the Farm Bureau's prescription for action to every Senator and to every American. Farmers know what is imperative to resolve this crisis—and we ought to have the good sense to listen carefully and follow their advice.

I ask unanimous consent that Mr. Delano's letter and the policy statement of the board of directors of the American Farm Bureau Federation be printed in the RECORD.

There being no objection, the letter and statement were ordered to be printed in the RECORD, as follows:

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., April 24, 1980.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: The Senate is beginning consideration of the First Concurrent Budget Resolution at a time in our economic history when the annual inflation rate is over 18 percent; farmers are faced with lower incomes due to inflation, depressed markets, and credit conditions that are

sure to prevent some from planting this spring.

The nation is in great need of fundamental changes in both monetary and fiscal policy. Fundamental changes in monetary policy were begun by Chairman Volcker in October 1979 in an effort to bring the supply of money and credit under control to check inflation. Farm Bureau supports the Federal Reserve effort but the Fed cannot control inflation alone. Congress must cooperate with the Federal Reserve by reducing federal expenditures to balance the budget.

Congress is now presented an excellent opportunity to bring inflation under control by cutting federal expenditures to balance the federal budget. This task is both challenging and ominous. Americans are calling for accountability from each member of Congress to look beyond the demands of special interest for the good of the nation.

Farm Bureau supports a balanced budget by meaningful reductions in federal spending. The attached policy statement issued by the AFBF Board of Directors in March supports all efforts to balance the budget by cutting federal spending.

Farm Bureau's three million member families are willing to make their share of sacrifice in order to control inflation and to restore good health to the economy. We ask you for your commitment to this cause.

ROBERT B. DELANO,
President.

POLICY STATEMENT OF THE BOARD OF DIRECTORS, AMERICAN FARM BUREAU FEDERATION

Farm Bureau members throughout the nation are alarmed at the runaway inflation which is rapidly approaching an annual rate of 20 percent. We are skating on the edge of an economic disaster at a time when we face grave international threats to the free world. Resolute action must be taken to stop inflation before it completely wrecks our economic and social system.

We reject the notion that it is impossible to identify the causes of inflation and come up with long-run solutions that will work. The American people understand very well that the basic cause is excessive spending and deficit financing by the federal government. Inflated prices and wages are the results of inflation; not its cause.

We reject the fallacious idea that wage and price controls are a cure for inflation. Farmers and consumers are still suffering from the results of the last effort to control beef prices. Such controls have never worked and would not work now, because they treat only the symptoms of inflation rather than its basic causes.

We call on the President and the leaders of both political parties to put politics aside and to reach agreement on an affirmative program of effective actions to be taken during the next 60 days. This agreement should include actions to rescind \$30 billion of the expenditures authorized for this fiscal year, to be implemented by a careful review of every budget item, and further action to reduce the 1981 budget, which Congress is now considering, by \$30 billion. In some cases, these actions will require a review and revision of basic legislation which is causing a rapid escalation of the cost of civil service salaries, transfer payments and other entitlement programs. Farmers are willing to take their share of the sacrifices that are needed to bring inflation under control by accepting proportional cuts in the Department of Agriculture's budget as a part of an overall reduction in the total federal budget.

In addition to drastic cuts in federal spending, a concerted attack on inflation should include tax reforms to encourage savings and investment as a means of increasing productivity; a large-scale elimination of excessive and unnecessary government regulation; and a realistic energy policy which will

provide greater freedom for the market system to reduce our dependence on imported oil by encouraging conservation and expanding the production of domestic sources of energy.

We reiterate, however, that the most important and essential step that can be taken to stop inflation is for the federal government itself to stop creating inflation through excessive spending and deficit financing which leads to the printing of money. Significant cuts in federal spending are needed to break the psychology of inflation and to reinforce the courageous efforts of the Federal Reserve Board to restrain the growth of the money supply.

"Politics as usual" will not stop inflation. What we need is dramatic action by the President and the Congress to set aside partisan politics for a few weeks and to convince Americans that their political leaders intend to do more than just talk about the need to bring inflation under control.

THE CRISIS IN U.S. NATIONAL SECURITY

Mr. HELMS. Mr. President, retired Brig. Gen. Albion W. Knight, Jr., a distinguished and articulate American, recently addressed the 1980 national convention of the Daughters of the American Revolution on the subject of our national defense.

I was privileged to be present as he warned that our national security is perilously grim. He said, for example:

Our nation is in grave danger! Our political leaders, in a sense of fear and wishful thinking, have allowed the strategic nuclear superiority which has protected the country for forty years to wither away. The Soviet Union now has the most powerful military force in history. That force is the ultimate tool they have been seeking to reach their long-term objective: world domination.

The United States now faces the stark question of its survival as a free nation. Unless we make major changes in our foreign and security policies this year, I believe that we have less than 1,000 days left. We have let ourselves become subject to Soviet political and military blackmail.

General Knight has had a long and distinguished career in the service of his country and each of us should give his analysis of our weakened defense posture special attention and study.

I ask unanimous consent that the text of General Knight's address to the Daughters of the American Revolution be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE CRISIS IN U.S. NATIONAL SECURITY

Our nation is in grave danger! Our political leaders, in a sense of fear and wishful thinking, have allowed the strategic nuclear superiority which has protected the country for forty years to wither away. The Soviet Union now has the most powerful military force in history. That force is the ultimate tool they have been seeking to reach their long-term objective: world domination.

The United States now faces the stark question of its survival as a free nation. Unless we make major changes in our foreign and security policies this year, I believe that we have less than 1,000 days left. We have let ourselves become subject to Soviet political and military blackmail.

Tonight I want to talk about our external dangers which stem from the strategic imbalance and how it came about. It is a grim picture which fills some Americans with fear

and despair and others with rising anger. But there is also a positive side to the story; we can still act to keep our destiny in our own hands. I will describe some of the quick and practical steps we can take to recover our strategic credibility.

I am certain of one thing: we cannot continue in safety with the foreign and security policies of the past five presidents. Their policies, built on illusions, wishful thinking and misplaced hope brought us to the brink of disaster.

How did the United States lose its vital strategic nuclear superiority? Let us review some history. In October 1962 the United States forced Russian missiles out of Cuba because of the six-to-one American nuclear superiority over Soviet forces. That superiority was the result of the prudent decisions of President Eisenhower after the October 1957 Russian launching of their Sputnik satellite. He ordered the development and production of B-52 jet bombers, Minuteman missiles and Polaris submarines. Our national security is still based upon these systems.

After the Cuba missile crisis two major decisions were made: First, the Soviet leaders decided to seek clear strategic nuclear superiority over the United States; Second, the Kennedy Administration and its successors decided to permit Soviet nuclear equality with the U.S. and then to freeze that condition with a series of arms control agreements to control the arms race.

What did the Russians do? Beginning in 1962 they spent from 10 to 15% of their gross national product on enlarging their military forces across the board: strategic and theater missiles, bombers, fighters, tanks, artillery, submarines, a blue water navy, strategic airlift, air defense, missile defense, civil defense, better logistic, more troops and a heavy military research and development effort. Since 1970 they have spent over \$300 billion more than we have on military forces. In that same time they have spent over \$100 billion more than we have on strategic forces alone. The CIA said that in 1979 the Soviet Union spent—just in one year—over \$50 billion more than we did on defense. This level of expenditure over 15 years shows a firm political commitment to military superiority. It also shows that the Soviet Union has been running in an uncontrolled nuclear arms race.

But the Soviet Union could not have gained that strategic superiority without our help. How did we do it? We gave them our technology. We helped finance their military effort with low interest loans. We sent them our food. But our political decisions surrounding our national security policy were even more helpful to them.

First, we began with President Kennedy a policy of unilateral disarmament which extends through each of his successors to President Carter. In 1962 the Kennedy Administration was certain that the Russians only wanted to be equal in nuclear power with the United States. To reach that point of equality at a lower level of weapons, they began a major cutback of existing nuclear weapon systems, cancelled new ones, and refused to develop weapons which the Soviet leaders might believe to be "provocative". Let's translate that: Our Government believed that the world would be safer if the United States were weaker and the Soviet Union stronger.

This gives a key to a major flaw of our foreign policy for the last twenty years: the safety of the world has a higher priority than the safety of the United States of America! Our American heritage—which you have done so much to preserve—demands a policy which places the nation's security at the top priority; higher than humanity as a whole, higher than the United Nations, higher than any other nation, and higher than any new economic or political inter-

national order. American sovereignty must never be ceded away in a treaty or just given up through fear, apathy, negligence or intent.

The second policy step was to engage the Soviet Union in a series of arms control agreements with the objective of controlling the nuclear arms race. We believed that the Soviet Union would live up to the terms of each treaty. We believed that they would not cheat. We believed that our intelligence was so good we could catch them if they did cheat. This was a mistake. Our political leaders did not read their history. In Communist doctrine, cheating on a treaty is moral if doing so helps the state. The Soviet Union has violated every one of the arms control treaties we have signed with them. When we did find out about their violations, we usually hid them—especially from the American people—because we did not wish to hurt the credibility of the arms control process. We showed a lack of nerve which still exists today. The U.S. Government is generally the first apologist to the American people for a Soviet treaty violation.

How have these arms control agreements harmed our strategic strength? The 1972 SALT I agreement and the ABM treaty granted the Soviet forces a three-to-two advantage over the U.S. It denied the U.S. key weapons the Soviets were permitted. It created loopholes through which the Soviets drove their massive strategic expansion.

Some of these problems are demonstrated in the 1979 SALT II treaty still pending before the Senate for ratification. The Treaty is not in the best interest of the United States. It has serious technical, political and moral flaws.

Technically, it leaves uncanceled major Soviet nuclear weapons which can strike us. It permits the Soviet Union to have critical weapons systems denied to the United States. It cannot be verified technically against Soviet cheating. Finally it prevents the United States from taking steps to recover its strategic credibility. I will talk about this later.

Politically, the SALT II Treaty freezes the United States formally into clear strategic nuclear inferiority. Its negotiation history is a disgraceful story of concession and appeasement to Soviet demands. It strips away the protective nuclear umbrella we have held over Western Europe and Japan.

Morally, the Treaty is fatally flawed. I will deal with this in some detail since it also reveals fundamental mistakes in our overall security policy.

First, we have forgotten who we are dealing with. We have forgotten that the Soviet Union, since 1917, has killed over 40 million of its own people for political reasons and has enslaved millions more simply because they disagreed with the decisions of the Communist Party.

We would not have signed an arms control agreement with Adolph Hitler, particularly if we had known ahead of time that he had killed over 6 million Jews in a holocaust. Yet, we seem to have no twinge of conscience in signing an arms control treaty with a nation which has killed over six times Holocaust.

We ignore the fact that the Soviet Union is basically responsible for the Cambodian Holocaust, the Vietnamese boat people, the inhumane use of poison gas in Laos, Cambodia and now in Afghanistan. Further, they are producing biological warfare weapons in direct violation of a treaty signed with us and 85 other nations in 1972.

We made a major mistake by supporting Stalin against Hitler in World War II. We should have let the two dictators destroy each other. We are now paying a heavy price for that mistake. This should be a warning for us today. Our government is seriously playing the "China Card" against the Soviet

Union. Let us not forget that Communist China, in its short but bloody history, has killed over 60 million of its people for reasons of state.

As a Judeo-Christian nation, we should heed the words of the Lord in the 30th Chapter of Isaiah: "Woe to the rebellious children, says the Lord, who carry out a plan, but not mine; and who make a league, but not of my spirit." Arms control with a godless tyrannical power, dedicated to the destruction of liberty which flows from the worship of God, is not of God's spirit. Beware America!

The second moral flaw in the SALT II Treaty is that it freezes our government into continuing the immoral, dangerous and now ineffective doctrine upon which our security has been based for 15 years. As a Judeo-Christian nation, who values the life of the individual over the state, we have placed our security in the threat of destroying the lives of millions of innocent Russian people while intentionally avoiding Soviet military targets. Our theory of strategic deterrence says that we shall absorb a Soviet nuclear first strike against the United States (itself a grossly assumption). We shall then still have enough nuclear power left to do "unacceptable damage" to the Soviet society. That threat of terror is supposed to deter the Soviet first strike on the United States from ever happening. Let us examine that carefully. Our weapons are so designed that all we can hit are cities and people. Our military forces are prohibited from striking Soviet offensive weapons held in reserve.

On the other side of the coin, we intentionally, according to doctrine approved by five presidents, leave the American population unprotected from a Soviet bomber or missile attack. We are intentionally left hostage to a Soviet attack. You and I are told by our government that we are not worth protecting. It is grossly immoral. One of the benefits of the SALT II debate around the country is that American citizens are waking up to the reality of this doctrine of no defense.

In line with this doctrine, we have dismantled every one of the air defense missiles that used to protect our cities from bomber attack. All we have left are 300 obsolete fighter interceptors. That is why the SALT II loophole which permits the Russians to have uncontrolled their new supersonic Backfire intercontinental bomber is so important. We have dismantled our promising ABM missile system. We have almost starved to death the research and development program for anti-ballistic missile defense. We have only a paper civil defense.

On the other hand, what has the Soviet Union done to defend itself? Are they unprotected? Absolutely not! Whereas we have no air defense missiles, they have over 12,000; where we have 300 old interceptors, they have 3,000; where we have killed the ABM system, theirs still operates and with new components which could make them effective against our missiles in a short time. They have a strong civil defense program which protects their government structure, key industries and many of their people.

What does this mean? Should the U.S. ever carry out its strategic doctrine, the Soviet defensive measures and their untouched reserve missiles, the Soviet Union could win a nuclear war! They would lose not more than 10 million people and could, on a retaliatory strike kill over 100 to 150 million Americans.

See what has happened? In October 1962, the U.S. made Khrushchev do what we wanted because for every American killed there would have been ten dead Russians. Today, it is reversed: for every dead Russian there would be at least ten dead Americans. Thus we have given the Soviet Union the ultimate tool for political blackmail. I do not believe

that the Soviet leaders would need to strike the United States with a massive nuclear attack. I believe they can now use their new terror weapon to blackmail us politically on a series of lesser but vital matters without firing a shot.

In fact, they are now using that strategic superiority to take full political advantage of their military power in Africa, the Middle East, in Central America and now in Afghanistan where they are positioned to seize the Iranian oil fields and to bottle up the Persian Gulf in hours.

This grim picture shows that our security hangs by a thread. We need to recover our strategic credibility as soon as possible. Our President must tell the American people the real nature of the danger. Then he must take the necessary steps, and the Congress must support him, to restore the damage of the last twenty years. Yet, I do not see this sense of urgency on either the part of the President or of the Congress.

President Carter has proposed several steps to give the sense of American strength. First he has asked for the registration of both men and women for the draft. As far as men are concerned, the issue is debatable at this point. We have not yet done our homework on where these men should go, what they should be doing or what the civilian requirements will be in the laboratories and in industry should we embark upon a major program to restore our strategic credibility.

However, the issue of registering and drafting women for military service is not debatable. That proposal is just plain wrong! I do not object to women serving as volunteers in the Armed Forces. In most cases they do a fine job. But I believe that under no conditions should these women volunteers or any other women be permitted to face combat duty.

Requiring women to serve in the Armed Forces is a sign of the degradation of our society, the deterioration of our high Christian respect for women, and shows that we as a nation no longer believe that the family is the source of our society's strength. I have a number of objections to that proposal:

First, I believe that the Armed Forces are being used improperly as a launching platform for social experimentation. The experiment seems to be more important to the Administration than are the requirements of national security. One of America's best philosophers today is Professor Michael Novak who wrote recently on this point:

"The American people must choose. Does the U.S. military have a military purpose? Or is its purpose to test a philosophical fantasy? Do we want defense? Or social experimentation? Many critics have said that the sweeping assumptions of the Equal Rights Amendment are based on fantasies and wishes. The reality of military service has brought these fantasies to a screeching halt. The prospect of combat shattered them beyond repair."¹

This comment of Dr. Novak raises an important point. If we must return to the draft, it is because we do see actual combat staring us in the face. If this is so, our soldiers will be facing men—well trained men—who will be shooting to kill. To send women into combat, with 60 percent of the physical strength of men, under filthy, exhausting, bloody impossible conditions is to consign women to almost certain death.

To require the registration and draft of women gives one more signal of weakness of America to the rest of the world. It says that we no longer have enough willing to protect our nation. I know that is not true.

Another objection is that our feminist theorists have ignored the very practical problem of sex. Where men and women are

¹ Michael Novak, "The Army as Maternity Ward," *Washington Star*, February 25, 1980.

in the same barracks, the same ships and the same foxholes, there will be sex. Training for survival in combat is tough enough without this extra distraction. Our experience to date shows that the unmarried pregnancy rate in the military is soaring. For our women soldiers in Europe today it is reaching as high as 15 percent. That is an unnecessary problem for our commanders to deal with.

Finally, it is wrong according to our religious foundations. The Holy Bible sets the family on a higher priority than warfare. There are scriptural provisions for the registering of men for warfare—but not for women. To do so would destroy the family. A nation that defies this God-ordained priority will suffer serious consequences both at home and in the military ranks. The results already show these consequences. Let your Senators and your Representative know that registration for women for the Armed Forces is totally unacceptable.

What can we do to save our country? Surely matters have not yet deteriorated where we must leave our security in the hands of what we hope will be a benign Soviet Union. We still can correct the problem, but there is so little time left that we can hardly wait for a new Administration to take office.

I am convinced from technical studies that we can recover our strategic credibility and that we can do it within one thousand days. I will talk about what we can do later. But first, let us look at what must be done in our attitudes and understandings.

We are in trouble because our political leadership has lost its nerve and it is becoming more apparent to our friends and our enemies that this is the case. Alexander Solzhenitsyn, the great Russian writer, told us when he arrived in this nation five years ago that the West had lost its nerve. This was shown in our political, economic, intellectual and even religious leadership. He warned that every nation and civilization in history which lost its nerve has died.

Our first step in recovery is to decide to survive. We must show the world that the American people believe that this nation, founded by God-fearing and courageous people, still believe our nation is worth protecting. We must show that our religious roots are so firm that we can face with courage the dangers of the future. Just a few weeks ago, Solzhenitsyn gave us new advice. He said, "Communism stops only when it has encountered a wall, even if it is a wall of resolve. The West cannot now avoid erecting such a wall in what is already its hour of extremity". Before we start rebuilding weapon systems, we must rebuild that wall of resolve.

Another great philosopher, Dr. Charles Mall, the Christian diplomat from Lebanon, told a Washington audience last year that the revolution in Iran was the Pearl Harbor of the West for today—except that the tragedy is that we seem not to realize it. He said that there will be no solution to the Middle East crisis until we make it very plain to all in the Middle East—and especially to the Soviet Union—that we are determined not to die. It is absolutely necessary that American citizens take the leadership and tell their political leaders that we do not intend for them to continue handing our nation over to anyone who threatens us. We intend to stand firm and we expect our elected leaders to understand our determination.

Second, as part of the solution, all Americans, and especially our political leaders, must understand the seriousness of the problem. We must understand that we are facing a struggle to the death. We must understand that we are facing an enemy who is dedicated to our destruction and that he now has the ability to do that. With that in mind, we need to take a whole new attitude toward our defense. We must make our ob-

jective national survival rather than national security. National security deals with long-range problems. National survival means that we have urgent problems to solve right now. They must be dealt with first. We do not yet have that kind of program for our protection.

Before we can take positive measures we need to clear the decks of old impediments. First, we need to recognize that detente worked only to the advantage of the Soviet Union. Second, we must change our strategic doctrine to place top priority on the protection of the American people from Soviet attack. Third, we must cancel the arms control agreements with the Soviet Union which prevent us from recovering our strategic credibility in the shortest possible time. Let me tell you why this must be done.

We are in trouble today because our Minuteman missiles in the west can be eliminated by only 300 of the Soviet very heavy missiles. Our missiles are vulnerable because they are pin-pointed by the Russians. They cannot move and they are prohibited by the SALT treaty from moving. We must reduce their vulnerability as a top priority. We cannot wait eight more years for a new system to do that job. We can do it with these present missiles.

We can take the Minuteman out of the solos, put them in cannisters, place them on mobile flat bed trucks. We can fire them from parking lots with the controls on the back end of a jeep. We have done that in tests. But the SALT II treaty bans us from doing that. We can fire these missiles from aircraft. We did it twice in September 1974—and that triggered the November Vladivostok meeting between President Ford and Brezhnev. Yet the SALT II Treaty bars us from firing ballistic missiles from aircraft. We can place those missiles on surface naval vessels. Yet, the SALT II Treaty will not let us do that. All these things we need to do to protect our present strategic deterrent—without building a new missile. Yet we can, and must, reopen the production line for the Minuteman.

This example shows how we have let the SALT II treaty and the arms control process take a higher priority than our national defense. This shows dramatically that we cannot recover our strategic credibility and still have the arms control agreements with the Soviet Union in effect. Therefore, it is essential for the Senate to reject the SALT II treaty and the sooner the better.

Then we must use our innovation. If we do that we will not have to match the Soviet Union in the short term missile for missile, bomber for bomber or submarine for submarine. In the past twenty years we have been restricted from using our American spirit of ingenuity for it violates the spirit of the arms control agreements. But if we use our imagination we can multiply the effectiveness of our weapons systems many times by using mobility and deception.

Let me give you some examples. Some of our Navy people have proved that you do not need to fire a missile from a submarine or a surface ship. You can put a cork in the motor, kick it into the sea and fire it directly from the sea. You can take the submarine-launched cruise missile and place it on any vessel that has a torpedo tube. You can do what the French are going to do: develop a light intercontinental missile and make it so mobile that it can travel on the interstate highways and look like any other truck. The French call their system the "Danone" because it looks like the trucks that deliver yogurt. We can even use off-the-shelf technology and put together a small space cruiser which can shoot down Soviet missiles in the upper atmosphere. We can do that within the next two years.

Yet, we are not doing any of these possible things because the Administration is still deeply committed to the arms control pro-

cess. Yet they are the very things that we need to do to preserve the nation. Their value is that they leave the Soviet Union in doubt about the size and location of the American weapons which threaten them. It is time that we stop defending our nation using only the Russian rules. Arms control is good for the superior power. Since we are no longer the superior power, our safety lies in being fast and tricky.

There are many other steps that we can take in the military, political and economic arena. There is not time to discuss them here. But let me leave you with the thought that our quiver is full of arrows for our protection if only we have the courage and insight to use them. All it takes is a political decision.

These policies I have described to you will not be easy. They will be riskier than continuing a policy of appeasement. They will require courage. But they will be necessary if we are to survive as a free nation.

Courage, however, is a characteristic of the Judeo-Christian faith upon which our nation was built. Another characteristic is that cold, hard facts can be accepted and taken in the face of grave danger. The history of the American Revolution shows that time after time.

In our faiths we conduct a constant spiritual warfare with Satan. We are used to a constant confrontation between good and evil in our personal lives. In this world, confrontation with evil cannot be avoided. Yet for almost twenty years American foreign policy has been based upon a concept of nonconfrontation—of not being provocative to the Soviet Union. It is time that we become provocative in order to preserve our liberty. It is time that we return to the motto on the Rattlesnake flag of the American Revolution: Don't tread on me!

It is time that we stop seeking a detente that favors only the Soviet Union. It is time that we remember that a world without a free United States of America would be a world without hope. It is time that we citizens tell our political leaders that we will no longer tolerate their weakness in the face of Soviet threats. It is time that we accept the advice of the Lord as He told the prophet Joel about the last days:

"Beat your ploughshares into swords and your pruning hooks into spears; Let the weak say I am strong." (Joel 3: 10)

We are facing the last days. We have only so little time left to keep our nation free. Let the citizens of the United States provide the moral courage which will force our leaders to stop giving away the nation on a silver platter. That moral courage can only come from a faith in the Living God and from a clear remembering of the price our forefathers paid to create this nation under God's guidance and protection.

FRENCH OLYMPIC COMMITTEE'S DECISION ON SUMMER GAMES IN MOSCOW

Mr. EXON. Mr. President, I am tremendously pleased with our new Secretary of State. I have an item which came over the news wires a few moments ago, and I want to share it with my colleagues. It is an Associated Press report out of Brussels, Belgium:

ASSOCIATED PRESS REPORT

Secretary of State Edmund S. Muskie said today the French Olympic Committee's decision to reject President Carter's call for a boycott of the summer games in Moscow is "incomprehensible."

In a comment made to reporters as he conferred here with Western European allies, Muskie accused the French committee

of helping the Soviets justify their military intervention in Afghanistan. He said he spoke less as Secretary of State than "a citizen of the United States whose father was born in Russian-occupied Poland."

In his message to the NATO Defense Planning Committee, Muskie urged meaningful economic sanctions against Iran, declaring that ingenuity, not force, offers the best hope for freeing the American hostages. "Make them see they must pay a price," he said.

The setback on the Olympics was the first reversal since Muskie took over earlier this month from Cyrus R. Vance. The administration had hoped the French Government would use its influence to have a decision deferred—at least until the West German Committee, which is expected to approve the boycott, takes its position Thursday.

Muskie, talking to reporters in the lobby of the European Common Market headquarters, said the Soviets consider the July games "a confirmation of the rightness of their foreign policy."

"I find it incomprehensible," he said, "that a free people, whether Europeans or Americans, whether athletes or non-athletes, contemplate allowing the Soviet Union to confirm that act."

Muskie said participation in the Olympics would confirm to the Soviets the rightness of "their system, their policy, their aggression in Afghanistan."

The Europeans, getting their first look at the lanky ex-Senator since he replaced Vance, heard a lecture on their responsibilities.

Muskie urged foreign and defense ministers from 13 of the 15 NATO allies to increase their defense spending while the United States guards the Persian Gulf against the Soviets.

In Moscow, the official Tass News Agency accused the United States of using the NATO meeting to pressure its allies into new military programs. Tass said the meeting of the "aggressive bloc" took place "in an atmosphere of militarist psychosis and whipping-up of the arms race."

Muskie also advised the European allies to keep their hands off Mideast diplomacy even though U.S.-led negotiations on Palestinian autonomy are lagging.

He tried to dissuade the Europeans from watering down last month's decision to cut off trade with Iran except for food and medicine.

"We need a sanctions policy that is meaningful, that will hurt the Iranians and make them see that they have got to pay a price for their hostage policy," Muskie told a news conference after his closed-door speech.

The Europeans meet in Naples, Italy, next weekend to decide whether to exempt current contracts from the ban approved April 22 by the European Economic Community.

"I would hope no action was taken to undercut it or so dilute it that it becomes ineffective," Muskie said.

At the same time, he offered the nervous Allies assurances the Carter administration was not poised for a military strike to free the hostages, held in Iran since last Nov. 4.

"I don't see any military option that promises or guarantees success in achieving that goal," Muskie said.

And yet, he said he did not want "to give the Iranians the luxury of our excluding it" entirely.

The best approach, Muskie said, is "to explore all the nonmilitary avenues that are available—and they are considerable—as well as our ingenuity, the ingenuity of friends and contacts with the Iranians."

Mr. President, I hope that our supposed French friends, for whom American blood has been spilled, in quality and quantity, to free their homeland twice in

this century, will understand that we appreciate Lafayette and his spirit, and we wonder where that French spirit has disappeared to these days.

WORK AFTER 65: OPTIONS FOR THE 1980'S

Mr. PERCY. Mr. President, on May 13, the Senate Special Committee on Aging, of which I am a member, held a hearing on "Work After 65: Options for the 80's." This is the second in a series of hearings in which the committee is exploring how opportunities for extended employment can be encouraged for older workers.

We were fortunate in having senior executive officers from four corporations testify on the work opportunities available for older workers at their respective companies. The panel of witnesses included: C. Peter McCollough, chairman and chief executive officer, Xerox Corp. and chairman, President's Commission on Pension Policy; Gerald L. Maguire, vice president of Corporate Services, Bankers Life and Casualty of Chicago; Harold S. Page, vice president, personnel, Polaroid Corp.; William M. Read, senior vice president, Employee Relations, Atlantic Richfield Co.

I am pleased that the committee is reviewing future retirement and work options for older persons. Following is the opening statement I submitted to the committee during the hearing. In addition, I also am sharing with my colleagues an article which appeared in the Washington Post on May 14 concerning the hearing.

Mr. President, I ask unanimous consent that my remarks during the hearing and the May 14 Washington Post article entitled "Older Workers Seen as More Productive" at this point be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WORK AFTER 65: OPTIONS FOR THE 80'S

Mr. Chairman, today's elderly Americans are a pioneer generation: they are the first in history to experience a long and early retirement.

However, their dreams of having a comfortable retirement are rapidly changing. Inflation, the major reason why dreams are breaking, is having a serious impact on the elderly. It is not only eroding the meager retirement incomes of most older persons, but it is dramatically shrinking their purchasing power. It is threatening the economic well-being of older persons especially those living on fixed incomes.

Still, the evidence suggests that people are opting for early retirement despite the economic problems early retirement may bring. Although the mandatory retirement age has been raised for most workers from 65 to 70, there is little evidence to support the belief that many workers are staying at their jobs the extra five years.

There is an obvious contradiction here—and we need to address ourselves to it. Could it be that by encouraging people to work as long as they can be productive, we will help ease their economic problems as well?

We have achieved major advancements in medicine and technology that make it possible to prolong life. We have been told that since 1940 life expectancy has increased by almost 10 years. Today a man can expect to

live to 69 and a woman to 77, with 76 percent of the population reaching age 65.

Over 11 percent of our population, an estimated 25 million Americans, is aged 65 or over. The trend in America is towards an aging society, with a dramatic increase in the proportion of elderly and an equally striking reduction in the proportion of young. The post-World War II baby boom soon will become the senior boom in the next century. It is projected that by the year 2030 over 55 million Americans will be 65 or over. Thus, in terms of sheer numbers, retirement should be regarded as a major social issue in the United States. How we deal with our current retirement and employment policies will not only have a profound impact on older workers but also on our own futures as well. We need to review private and public sector policies which have encouraged retirement of physically and mentally able older Americans.

Unemployment statistics do not reflect the number of persons who would like to work but who have given up seeking employment because they feel prospects are hopeless. What options are available to these people in job counseling and retraining programs?

In the continuing series of hearings on "Work After 65: Options for the 80's" the Committee will be hearing today from top executive officers from major companies: Xerox, Bankers Life and Casualty of Chicago, Polaroid, and Atlantic Richfield. I want to hear from the officers about not only what options they are offering for the employment of older workers but also what their companies are doing to properly prepare older workers for retirement.

I am pleased that Mr. Gerald Maguire, Vice President of Corporate Services for Bankers Life and Casualty Co. of Chicago, Illinois, will be testifying on his company's long-standing, non-mandatory retirement policy. One of the examples of how a company can continue to employ older workers and yet save money is found at Bankers. I understand that Bankers' retiree temporary worker pool, which began operating in March of 1979, has saved the Company thousands of dollars in employment fees and—most importantly—has provided retirees an opportunity to work and share their valuable services.

For the last two years, Bankers Life and Casualty Co. and Northeastern Illinois University, Chicago, have cosponsored the National Conference on Age and Employment in Chicago. The conferences have enabled all who have attended an opportunity to share the experiences, systems, and procedures of their business, academic institutions and service agencies in the hiring and retention of older workers.

I wish to commend Bankers Life and Casualty Company for developing fresh approaches towards retraining older workers, and giving many of them the chance to feel productive.

OLDER WORKERS SEEN AS MORE PRODUCTIVE (By Nancy L. Ross)

True or false: Workers over age 65 are less productive, more often absent from the job and cost companies more due to their higher salaries and medical benefits?

All false, according to four major corporations which have considerable experience dealing with elderly employees. The four—Xerox, Polaroid, Atlantic Richfield and Bankers Life and Casualty—testified yesterday before a Senate Special Committee on Aging's hearing on ways to encourage work after 65.

Sen. Charles H. Percy (R-Ill.), who was a corporate chairman before becoming a legislator, outlined what he termed the "obvious contradiction" in our society today.

"Inflation," he said, "is having a serious impact on the elderly. Still, the evidence suggests that people are opting for early

retirement despite the economic problems it may bring."

He noted that a recent change in the law raising the mandatory retirement age from 65 to 70 has had little effect on the number of older workers, although individual companies like Polaroid report that as many as 80 percent of their employees over 65 are still on the job.

Early retirement for some has become a part of the American dream. A survey conducted last fall by the President's Commission on Pension Policy shows that 47.5 percent of the population expect to retire at age 62 or before, even though 63 percent said their retirement income would be inadequate.

C. Peter McColough, the commission's chairman, said there is a "fairly general experience" in the business community today that inflation is causing people to work longer. But fundamental changes like tax credits, alternative work patterns such as phased retirement, and educational and vocational training are needed to solve the "basic attitudinal problem" of opposition to work after 65, he said.

This has become a national necessity because the number of young workers is shrinking in comparison to the number of older ones, as are the payroll taxes to pay for their retirement, McColough added.

Xerox, which McColough also heads, has developed a preretirement counseling program, although as a fairly young company it has few older workers.

Bankers Life and Casualty of Chicago, on the other hand, has had 40 years experience with older workers. Gerald L. Maguire, vice president of corporate services, tried to puncture some of the myths that he claimed scare employers most.

Retirees do three times as well as commercial temporary employees who do not know the business, Maguire said. "Older workers are a special breed of people, self-disciplined. They know themselves when it's time to go; in 40 years we've never had to tell a person to retire."

He contended it is more economical for a company to continue paying older workers' higher salaries than to retrain new employees. The old take only 20 to 33 percent of the compensatory time taken by the young for accidents, and insurance is cheaper because of Medicare, Maguire said.

Polaroid has several innovative work patterns, including tapering off and "rehearsal retirements." The latter allows an employee to take off three to six months without pay just to see how it feels to retire. If dissatisfied, the employee can return to his or her previous job.

Atlantic Richfield, the only blue-collar company represented at yesterday's hearing, has had only two years experience without a mandatory retirement age. Harold S. Page, vice president for personnel, said just 3 percent of employees reaching 65 elected to stay, whereas 80 percent continued to retire early.

Page admitted it will be difficult to convince labor unions and management of the advantages of post-65 work. Moreover, he warned that if industry doesn't expand in the 1990s there may be serious problems with workers in the 25-to-45-year bracket who feel older workers are delaying their promotions.

Sen. John Glenn (D-Ohio) asked the corporate executives their opinion of a test being developed by the National Institutes of Health to assess skills to "find out how old is old." The executives declared themselves unanimously against such an idea.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirton, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT—PM 206

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I hereby transmit the "Annual Report of the Corporation for Public Broadcasting for FY 1979," in accordance with the Public Telecommunications Financing Act of 1978 (Public Law 95-567).

The Corporation's thorough report presents its major accomplishments during the past fiscal year in support of public radio and television broadcasting, technological change including satellite advances, and achievements in human resource development. The report notes the Corporation's vigorous response to the challenge provided by the Public Telecommunications Financing Act of 1978.

The Annual Report is being forwarded for the deliberations of the Congress.

JIMMY CARTER.

THE WHITE HOUSE, May 14, 1980.

MESSAGES FROM THE HOUSE

At 3:20 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 1123. An act to amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such Act for fiscal year 1980.

At 5:23 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 1140. An act to amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1980 and 1981, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the amendments of the House to the bill (S. 2253) to provide for an extension of directed service on the Rock Island Railroad, to provide transaction assistance to the purchasers of portions of such railroad, and to provide arrangements for protection of the employees; agrees to the conference re-

quested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. FLORIO, Mr. SANTINI, Ms. MIKULSKI, Mr. MURPHY of New York, Mr. MATSUI, Mr. VAN DEERLIN, Mr. BROXHILL, Mr. MADIGAN, and Mr. LEE were appointed as managers of the conference on the part of the House.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 14, 1980, he presented to the President of the United States the following enrolled bill:

S. 668. An act to permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the United States Court of Claims any claim such band could have filed with the Indian Claims Commission under the Act of August 13, 1946 (60 Stat. 1049).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, without amendment:

S. Res. 431. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3236 and the conference report thereon. Referred to the Committee on the Budget.

S. 2697. An original bill to authorize appropriations to the United States International Trade Commission, United States Customs Service, and the Office of the United States Trade Representative, and for other purposes (Rept. No. 96-701).

By Mr. NELSON, from the Select Committee on Small Business, with an amendment:

S. 2224. A bill to amend the Small Business Act to increase the solar energy and energy conservation loan program authorization, and for other purposes (Rept. No. 96-702).

By Mr. NELSON, from the Select Committee on Small Business, without amendment:

S. 2698. An original bill to provide authorizations for the Small Business Administration, and for other purposes (Rept. No. 96-703).

FOOD STAMP ACT AMENDMENTS OF 1980 CONFERENCE REPORT

Mr. TALMADGE, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1309) to increase the fiscal year 1979 authorization for appropriations for the food stamp program, and for other purposes (Rept. No. 96-704).

By Mr. BAYH, from the Committee on the Judiciary, with an amendment:

S. 2441. A bill to amend the Juvenile Justice and Delinquency Act of 1974, and for other purposes (Rept. No. 96-705).

S. 2511. A bill to amend the Civil Rights Act of 1957 to authorize appropriations for the United States Commission on Civil Rights for fiscal year 1981 (together with minority views) (Rept. No. 96-706).

By Mr. NELSON, from the Select Committee on Small Business:

Report entitled "Thirtieth Annual Report of the Select Committee on Small Business" (Rept. No. 96-707).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2549. A bill to authorize appropriations for fiscal years 1981, 1982, and 1983 to carry out the Atlantic Tunas Convention Act of 1975 (Rept. No. 96-708).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with an amendment and an amendment to the title:

H.R. 6554. An act to authorize appropri-

tions for the fiscal year 1981 for certain maritime programs of the Department of Commerce, and for other purposes (Rept. No. 96-709).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 433. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6554. Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LONG, from the Committee on Finance:

Edna Gaynell Parker, of Virginia, to be a Judge of the U.S. Tax Court.

Sheldon V. Ekman, of Connecticut, to be a Judge of the U.S. Tax Court.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BUMPERS (for himself, Mr. DURENBERGER, Mr. JACKSON, Mr. RIEGLE, Mr. LEVIN, Mr. NELSON, Mr. PROXMIER, and Mr. METZENBAUM):

S. 2695. A bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to further the objectives of national energy policy of conserving oil and natural gas through removing excessive burdens on production of coal; to the Committee on Energy and Natural Resources.

By Mr. HAYAKAWA:

S. 2696. A bill to establish ridesharing programs nationwide; to the Committee on Governmental Affairs.

By Mr. LONG (from the Committee on Finance):

S. 2697. A bill to authorize appropriations to the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative, and for other purposes. Original bill reported and placed on the calendar.

By Mr. NELSON (from the Select Committee on Small Business):

S. 2698. A bill to provide authorizations for the Small Business Administration, and for other purposes. Original bill reported and placed on the calendar.

By Mr. NELSON (for himself, Mr. STEWART, Mr. TSONGAS, and Mr. TOWER):

S. 2699. A bill to amend the Securities Act of 1933 to authorize small issuers to sell securities to accredited investors without filing a registration statement under such Act, and grant an exemption from Section 5 of such Act for resale of these securities by accredited investors to other accredited investors; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. METZENBAUM:

S. 2700. A bill to give the Government National Mortgage Association—Ginnie Mae—the legal authority to forgive outstanding mortgage payments on Lanham Act properties where it is shown that the property was sold at a price higher than the appraised market value; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MCGOVERN:

S. 2701. A bill for the relief of Madhav Prasad Sharma; to the Committee on the Judiciary.

By Mr. LUGAR (by request):

S. 2702. A bill to correct an inequity in public housing sales; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MATHIAS:

S. 2703. A bill for the relief of Rodeline Dionio; to the Committee on the Judiciary.

By Mr. PROXMIER:

S. 2704. A bill to amend the Federal Reserve Act to authorize the Board of Governors of the Federal Reserve System to establish margin requirements for transactions in financial instruments; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BIDEN (for himself, Mr. MATHIAS, Mr. KENNEDY, and Mr. THURMOND):

S. 2705. A bill to amend chapter 207 of title 18, United States Code, relating to pretrial services; to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 2706. A bill to establish a one hundred per cent observer program on all foreign fishing vessels in the U.S. 200 mile fishery conservation zone; to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUMPERS (for himself, Mr. DURENBERGER, Mr. JACKSON, Mr. RIEGLE, Mr. LEVIN, Mr. NELSON, Mr. PROXMIER, and Mr. METZENBAUM):

S. 2695. A bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to further the objectives of national energy policy of conserving oil and natural gas through removing excessive burdens on production of coal; to the Committee on Energy and Natural Resources.

(The remarks of Mr. BUMPERS when he introduced the bill appear earlier in today's proceedings.)

By Mr. HAYAKAWA:

S. 2696. A bill to establish ridesharing programs nationwide; to the Committee on Governmental Affairs.

NATIONAL RIDESHARING ACT

Mr. HAYAKAWA. Mr. President, I am sending to the desk a bill which I am introducing today. This legislation will be called the "National Ridesharing Act".

Mr. President, energy, environment and transportation have become bywords in our vocabularies over the past few years. Last year, we experienced yet another oil shortage from Iran and the OPEC nations. The long gasoline lines which resulted from that shortage made us painfully aware of our dependence on foreign oil, and most of us became even more aware of our dependence on the private automobile. Modern America has grown up with the automobile. It has become synonymous with freedom to many of us, and we cherish the flexibility and personal mobility it provides us with. Although the gasoline supply now appears to have stabilized and the long gas lines of last summer are not being predicted this year, we are faced with some changes in our lifestyle and some hard decisions for the future.

The high cost of gasoline has made transportation a very real problem for

many people. I am not even talking about the luxuries of family vacations, or weekend trips to the beach or the mountains that are becoming a thing of the past, I am talking about the everyday, to-and-from work travel. A real emphasis has been placed on getting Americans out of their private cars, especially for the rush hour, commuter type of travel. As we have already seen, this process is going to be very slow and painful. It also presents some new problems.

In many areas of our country—my own State of California, for instance—the travel distances are so great, and the transportation systems are either non-existent or simply cannot accommodate all our needs. I believe we have to start by making alternate forms of transportation available. Many localities have already begun to do this by providing vanpool systems and various other forms of shared-ride programs. I have concluded that a national ridesharing program would move us in the direction necessary to assure making us a more energy self-sufficient society.

The National Ridesharing Act, which I have introduced, defines ridesharing as group travel by any mode, including carpooling, vanpooling, public-private buspooling, shared-ride taxi and jitneys, and public transit, in either mixed-flow traffic or on exclusive lanes, such as the bus lanes which we have in and around Washington. This would enable the establishment of ridesharing programs in urban and nonurban areas where none currently exist, as well as providing support for those already in existence.

This bill establishes a National Office of Ridesharing to make available grants, loans, and information for starting carpooling and vanpooling programs and other alternate transportation systems or endeavors. This office will coordinate the programs and activities currently existing in other departments of the Federal Government.

My bill is intended to encourage private ownership and operation of transportation because of the reliance placed on the marketplace. It stresses the need for a relaxation of Federal laws and regulations which impede the ownership of more than one kind of transportation. This will bring about the creation of new and innovative transportation ideas, and encourage the reemergence of others, perhaps used in the past but now long forgotten. The jitney, for instance, is once again taking its place in transportation systems in California, especially in San Diego. In San Francisco, there are 25 operating on Mission Street and 2 or 3 running on Third and Fourth Streets to the Southern Pacific Depot. San Diego recently passed a new section in their city code to clarify jitney licensing procedures. Although only a few operate there now, they are relieving some of the pressure of traffic from the airport to the center city.

The energy savings potential of ridesharing is enormous. Over 50 million Americans drive alone to and from work each day. If each of these drivers would carry just one additional passenger, we could save 22.5 million gallons of gasoline per day.

That is a startling figure, Mr. President, but as you drive on the highway, as I have often done, from Marin County to San Francisco, you see hundreds and hundreds of cars going by, the majority with only the driver and no other passenger.

Mr. President, in addition to its great potential for conserving energy, ridesharing offers other important benefits. It relieves traffic and parking congestion, reduces air pollution, cuts down on personal transportation expenses, and increases personal mobility. Ridesharing can also facilitate the use of flextime and mean less absenteeism to employers.

Mr. President, as I have indicated in these few minutes, this is an important issue, vital to our Nation, vital to our economy. I urge my colleagues to join me in what I believe to be a step toward solution.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Ridesharing Act."

DEFINITIONS

SEC. 2. (a) The term "ridesharing", for purposes of this Act, means group travel by any mode, including carpooling, vanpooling, public or private buspooling, share-ride taxi, fixed route or unregulated jitney, and public transit, either in mixed flow traffic or on exclusive high-occupancy vehicle facilities.

(b) The term "outreach effort" includes planning, survey analysis, implementation or evaluation of ridesharing programs, and marketing of rideshare activities.

FINDINGS AND PURPOSE

SEC. 3. (a) Congress finds that—

(1) a principal source of air pollution is the private automobile; and

(2) the automobile is a principal consumer of gasoline.

(b) the purposes of the National Ridesharing Act are to—

(1) promote and facilitate availability and use of alternatives available to the single occupant automobile for both work and non-work related trips;

(2) establish viable ridesharing programs in urbanized and nonurbanized areas where none currently exist; and

(3) support and enhance existing ridesharing programs.

(c) The benefits expected to result from the accomplishment of the objectives are—

(1) reductions in transportation related energy consumption, air pollution, and highway congestion;

(2) reduced dependency on foreign sources of oil;

(3) improvement of the balance of trade for the United States;

(4) strengthening of the United States dollar abroad;

(5) increases in disposable income available to United States citizens for nontransportation-related purposes; and

(6) increases in consumer transportation choice and mobility, especially in times of gasoline shortages.

ESTABLISHMENT OF NATIONAL OFFICE OF RIDESHARING

SEC. 4. The Secretary of Transportation (hereinafter referred to as the "Secretary") shall establish a National Office of Ridesharing. The Director of such Office shall report directly to the Secretary.

DEVELOPMENT OF THE PROGRAM

SEC. 5. (a) The National Office of Ridesharing shall develop a national ridesharing program to assist States, counties, municipalities, metropolitan planning organizations, other units of local and regional government, providers of ridesharing services, publicly owned operators of mass transportation services, and private entities in developing and implementing ridesharing programs.

(b) The National Office of Ridesharing shall have responsibility for the development and coordination of any and all ridesharing activities supported in total or in part by Federal funds. The National Office of Ridesharing shall administer funds and programs authorized under this legislation and shall coordinate those programs with other ridesharing activities within the Department of Transportation, the Department of Energy, and other branches of the Federal Government.

(c) The Director of the National Office of Ridesharing shall coordinate the development of ridesharing programs pursuant to this Act with the Administrator of General Services to insure that such programs are consistent with and complementary to efforts made by other Federal agencies to promote ridesharing in accordance with Executive Order 12191, Federal Facility Ridesharing Programs.

(d) The Secretary of Transportation and the Secretary of Energy shall establish a process for coordinating their Departments' activities related to the planning and implementation of ridesharing programs. All ridesharing-related Department of Energy moneys shall be coordinated with the requirements of section 134 of title 23, United States Code.

FUNDING

SEC. 6. (a) Funding for ridesharing services under this Act shall be available for establishment and operation of local or regional ridesharing programs, outreach efforts, dial-in ridesharing assistance, computer matching, and coordination with planning organizations, providers of ridesharing services, publicly owned operators of mass transportation services, State and local governments, and the private sector.

(b) Construction of high occupancy vehicle facilities and the purchase or operation of public transit vehicles are not eligible for funding under this Act. However, the development of ridersharing projects shall be closely coordinated at all levels of government with the planning of high occupancy vehicle facilities and public transit programs.

(c) Funding provided by this Act shall be in addition to ridesharing fund sources in the Department of Transportation, the Department of Energy, or other departments of the Federal government existing as of the date of enactment of this Act.

(d) Funds appropriated for apportionment prior to September 30, 1982, shall be allocated at the discretion of the Secretary to—

(1) support existing ridesharing programs which the Secretary certifies as viable;

(2) support significant expansion of programs which the Secretary deems so warrant; and

(3) establish new programs where none currently exist.

(e) Subsequent to September 30, 1982, funds for the establishment of new programs or for significant expansions of existing programs shall be allocated at the discretion of the Secretary. In order to facilitate orderly planning and management of existing viable ridesharing programs, funds to support such programs, as certified by the Secretary, shall be allocated on a formula basis set forth in section 7.

FORMULA ALLOCATIONS AND RECIPIENTS

SEC. 7. (a) Subsequent to September 30, 1982, the proportion of funds authorized by this Act to be allocated on a formula basis shall be determined by the Secretary on the

basis of the financial requirements of existing ridesharing programs which have been certified by the Secretary. However, such proportion shall not be less than 50 percent of the total funds authorized under this Act for the fiscal year ending September 30, 1983, plus any funds unapportioned from the prior fiscal year.

(b) Not more than 10 percent of the funds authorized under this Act shall be allocated by the Secretary to areas other than urbanized areas as defined in section 1608(c)(11), title 49, United States Code. Any funds to be allocated by formula in areas other than urbanized areas shall be made available for expenditure for eligible ridesharing activities on the basis of a formula under which each State will be entitled to receive an amount equal to the total amount so apportioned, multiplied by the ratio which the population of areas other than urbanized areas in such State (as designated by the Bureau of the Census) bears to the total population of areas other than urbanized areas in all the States as shown by the latest available Federal census.

(c) Any funds to be apportioned by formula in urbanized areas shall be made available for eligible ridesharing services on the basis of a formula under which urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all the urbanized areas in all the States as shown by the latest available Federal census; and

(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in paragraph (2), the term "density" means the number of inhabitants per square mile.

(d) Recipients eligible to receive and disperse the funds apportioned under this Act available to urbanized areas with populations of two hundred thousand or more shall be designated by the following, in accordance with the planning process required under section 1607, title 49, United States Code, and with the concurrence of the Secretary:

(1) the Governor;

(2) responsible local officials;

(3) providers of ridesharing services;

(4) operators of publicly owned mass transportation services; and

(5) appropriate representatives of the private sector.

A public agency shall be designated in accordance with the same planning process and procedures set forth in this paragraph to account for and ensure that Federal funds apportioned for ridesharing services are expended consistent with the policy and programing decisions made pursuant to the planning process set forth in section 9. All provisions of this Act shall apply to grants made to both public and private sector entities.

(e) Sums apportioned under this Act which are not made available for expenditure by designated recipients in accordance with the terms of subsection (d) shall be made available to the Governor for expenditure in urbanized areas or parts thereof in accordance with the planning process required under section 1607, title 49, United States Code, and shall be fairly and equitably distributed. The Governor shall submit an annual report to the Secretary concerning the allocation of funds made available under this paragraph.

TIMELY USE OF FUNDS

SEC. 8. Sums apportioned under this Act shall be made available by the Governor or designated recipient for a period of two years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobl-

gated at the end of such period shall be added to the amount available for apportionment under this Act for the succeeding fiscal year.

PLANNING PROCESS

Sec. 9. (a) The development of ridesharing programs shall be based upon the continuing, cooperative, and comprehensive planning process as required under section 134, title 23, United States Code, in section 1607, title 49, United States Code. The Secretary of Transportation shall not approve any project in an urbanized area unless he finds that the project is based on such process.

(b) The National Ridesharing Program shall be administered in a flexible manner to ensure participation of State departments of transportation, metropolitan planning organizations, counties, municipalities, providers of ridesharing services, publicly owned operators of mass transportation services, other local transportation planning and implementation agencies, and the private sector.

PUBLIC TRANSIT'S ROLE

Sec. 10. The National Ridesharing Program shall be developed to ensure that the various modes of ridesharing are implemented in a complementary rather than competitive manner. Carpooling, vanpooling, buspooling, jitneys, and other high occupancy vehicle programs shall be developed with full coordination with and participation by operators of publicly owned mass transportation systems. The Secretary shall not approve any programs which have not been developed pursuant to these requirements.

SPECIAL CONSIDERATION FOR LOCAL EFFORT

Sec. 11. The Secretary, in making discretionary apportionments to eligible recipients shall give special consideration to those applicants who have shown particular commitment to ridesharing by virtue of their use of non-Federal funds or eligible Federal highway funds in their ridesharing programs.

INVESTIGATION AND REPORT

Sec. 12. (a) The Secretary of Transportation shall conduct an investigation of the performance of the Office which shall include an analysis of—

- (1) the effectiveness of the programs;
- (2) operations and activities in accomplishing the goals and purposes of the program;
- (3) any reduction in gasoline consumption nationwide; and
- (4) any reduction in air pollution attributable to motor vehicles.

(b) The Secretary shall submit, to the President, Congress and the public, a report on the findings of the investigation by September 30, 1983. The report shall include the following:

- (1) a recommendation as to whether the authority of this Act should be extended; and
- (2) recommendations, if any, for reorganization of the Office.

AUTHORIZATION OF APPROPRIATIONS

Sec. 13. There are authorized to be appropriated funds not to exceed \$40,000,000 for the fiscal year ending September 30, 1981, \$50,000,000 for the fiscal year ending September 30, 1982, \$50,000,000 for the fiscal year ending September 30, 1983, and \$40,000,000 for the fiscal year ending September 30, 1984, for the purposes of carrying out the objectives of this Act.

By Mr. NELSON (for himself, Mr. STEWART, Mr. TSONGAS, and Mr. TOWER):

S. 2699. A bill to amend the Securities Act of 1933 to authorize small issuers to sell securities to accredited investors without filing a registration

statement under such Act, and grant an exemption from section 5 of such Act for resale of these securities by accredited investors to other accredited investors; to the Committee on Banking, Housing, and Urban Affairs.

SMALL BUSINESS ISSUERS SIMPLIFICATION ACT

● Mr. NELSON. Mr. President, on behalf of myself, Mr. STEWART and Mr. TSONGAS I am introducing today a bill entitled the "Small Business Issuers Simplification Act". The proposal would permit smaller businesses to raise capital by selling their stock to institutional and other sophisticated investors without the necessity of filing costly and complicated registration statements with the Securities and Exchange Commission.

I ask that the measure be referred to the Senate Committee on Banking, Housing, and Urban Affairs where hearings are currently underway, and that the text of the bill and section-by-section analysis be printed in the RECORD following my remarks.

This measure was proposed by the Carter administration as part of the effort to improve capital formation for new and small businesses. I ask unanimous consent that the transmittal letter from Mr. A. Vernon Weaver, administrator of the Small Business Administration, also be printed in the RECORD following my remarks for the information of all concerned.

The Small Business Committee has carefully reviewed the measure and we are pleased to introduce it now with the hope that it will receive serious and favorable consideration in the Senate hearings now in progress before the Securities Subcommittee under the chairmanship of the Senator from Maryland (Mr. SARBANES).

WHAT THE BILL WOULD DO

This bill contains two recommendations. First, there would be an exemption from registration under the Securities Act of 1933 if a small business wishing to raise capital sells its stock to large and sophisticated investors who are able to analyze the merits of the securities offering for themselves.

The term "small issuer" used in the Act is defined as a company which has total assets of less than \$15 million, revenues of less than \$30 million and/or less than 500 stockholders. The "accredited investors" allowed to purchase these unregistered securities are defined to include banks, insurance companies, investment companies, pension plans, and individuals prepared to purchase more than \$100,000 of the companies securities at one time.

The second aspect of the bill would permit resale of the securities acquired under the exemption described above if the purchaser is another "accredited investor".

The section-by-section analysis prepared by the administration provides a technical explanation of the legislation.

I would like to commend the administration for preparing and sending this proposal to Capitol Hill and the American Bar Association Small Business Committee for its Securities Conference in 1979 which developed the concepts on which the bill is based.

NEW AND SMALL FIRMS VIRTUALLY SHUT OUT OF SECURITIES MARKETS

For small and independent businesses, the raising of equity or permanent capital has become almost impossible in recent years. In 1977, Business Week magazine reported that the capital markets were open only to the 1,000 or so largest corporations. That 1,000 constitutes five one-hundredths of 1 percent of the 2 million corporations in this country. It would exclude half the listings on the New York Stock Exchange and virtually all of the companies listed on the American Stock Exchange or on the NASDAQ over-the-counter market.

It would certainly exclude the overwhelming majority of new and emerging companies, which may have the best ideas in the world but have no "track record" of earnings.

In a series of public hearings in capital formation over the past 2 years the Senate Small Business Committee found that in contrast to 1,056 small companies (with assets of less than \$5 million) which raised public equity capital in the 2 years 1968 and 1969, only 79 such companies were able to do so in 1978 and 1979. Witnesses told the committee that during the 1960's new companies could be launched with public stock issues. Now, however, a minimum requirement for such capital raising is about \$1 million in profits.

COSTS OF RAISING EQUITY CAPITAL HAVE SOARED

The costs of registering a stock issue with the SEC approaches \$200,000.

This level of cost was established in a study performed by the National Association of Securities Dealers and submitted at the Small Business Committee's capital formation hearings on May 22, 1979. It shows that the average cost of a first-time-to-market stock issue in the 7 years between 1972, and 1978 was \$189,368 and the figure soared over \$200,000 for 3 out of the 4 most recent years. The table follows:

Expenses of firm commitment underwritings of registered offerings of first time to market companies¹

Year	Number of offerings	Average registration expense
1972	478	\$120,486
1973	89	116,817
1974	9	199,359
1975	35	253,000
1976	21	217,745
1977	19	188,368
1978	24	229,805

¹ Excludes real estate investment trusts, closed end investment companies and commodity pools.

² Excludes three initial public offerings with an average gross dollar amount of \$52,000,000 and an average expense of \$510,000.

SOURCE.—"Financing Small Business", report of the National Association of Securities Dealers, Inc., May 22, 1979, p. 44.

These statistics show that conditions have changed in capital markets and they have changed for the worst for small business. These adverse developments make it urgent to strengthen the machinery by which new and small ventures gain access to public securities markets.

The administration's letter, expresses the "deep national concern" over the "serious problems and impediments . . . inhibiting the creation and growth of small and medium-sized businesses * * *".

It pinpoints the costs of reporting and regulatory requirements of the Securities and Exchange Commission as one of those impediments. The administration concluded that such costs "have effectively prevented small businesses from raising (equity) capital in public securities markets."

AREA OF REGULATION CAN SAFELY BE ROLLED BACK

The essence of this proposal is that sophisticated purchasers of securities and their financial advisors have the knowledge, expertise and experience to evaluate small issues. These investors can, therefore, dispense with the particular disclosure documents required by the Securities Act of 1933 and the rules and regulations thereunder that are "detailed and onerous to prepare."

We are saying that we want to roll back the barbed wire of the regulations and widen the area within which the free market can operate. The bill envisions that "accredited investors" would meet with the company management and would decide what information is needed as a basis for an investment. There would be no complicated documentary requirements, no detailed forms to indicate compliance with rules and regulations, and so the costs of raising the money would be markedly reduced. If the investors were not satisfied with the quantity or quality of the information, they would not invest their money. That is very simple and very direct, and therefore very appealing.

In my view we could safely push the regulations back even further and allow \$50,000 purchasers to be "accredited investors." That is still quite a lot of cash to come up with all at one time, and this would suggest that proper financial counsel would be obtained.

INVESTOR PROTECTION WOULD BE PRESERVED

The administration points out that even large "accredited" investors would continue to be protected under the securities laws if there is fraud involved. This legislation would not reduce the effect of existing antifraud provisions of the securities laws. The bill also leaves intact all existing protections afforded to small investors—those investing less than \$100,000. If such small investors were solicited after passage of this measure, the companies would be required to prepare and furnish disclosure documents to the same extent as they do now. The Securities and Exchange Commission would still be on the job, and small investors which need the protection would continue to receive it, as Congress has always insisted they should.

POSSIBILITIES FOR WIDENING ACCESS TO EQUITY CAPITAL

In examining this bill, we in the Small Business Committee were intrigued with the possibilities for broadening the area of the free market within which decisions might be made and for the potential of developing markets for blocks of the securities of new and small ventures

among institutional and other sophisticated purchasers. Those investors having large sums of money are well equipped to evaluate, and well situated to take, the greater and longer term risk which are associated in start-up and early stage financing of promising ventures.

This proposal is attractive because it merely removes a regulatory barrier and allows these investors greater liberty to make such investments if they appear to make good business sense.

This can greatly benefit the economy. Our committee has found that new and small firms and individual inventors consistently account for over half of all industrial innovation. In the nature of things, many of these new ventures fail or falter. However, when they succeed they can be the basis of entire new industries, such as Polaroid Camera of Edward Land, the photocopying process of Chester Carlson (Xerox) and the miniaturization of electronics which has spawned a series of billion-dollar markets such as hand-held calculators, minicomputers, intelligent terminals, telecommunications, data processing, and certain military hardware.

When we improve the climate for such investment, we greatly strengthen our economy and our country.

PARALLEL SECURITIES AND EXCHANGE COMMISSION RULE IN THIS AREA

One of the encouraging developments with respect to this legislation is that the Securities and Exchange Commission has recently adopted a position quite similar to the thrust of our bill. The Commission, under the able leadership of Harold Williams, has taken several steps in this area, including the establishment of an Office of Small Business to work on these matters.

At the end of January 1980, the Commission proposed a "rule 242," which would allow offerings up to \$2 million in any 6-month period, if they are sold to "accredited persons" and less than 35 ordinary investors.

Those "accredited" under the rule include the same types of institutional investors and \$100,000 purchasers contemplated by our bill. So, the Commission, which is the "watchdog" of the small investors also recognizes the need for change in this area.

The proposals are quite similar, although certain minor differences remain.

The bill does not have a limitation as to the amount of an issue while the SEC proposal does—it would permit \$4 million of securities per year by any one company. The bill limits the size of the issuer while the rule does not. Both proposals would permit sales up to 35 persons who were not "accredited," provided they receive disclosure information as is required by SEC. The SEC rule would require issuing companies to file a notice of the sale and another form 10 days after it is completed, which the bill does not. Further, SEC has resale limitations, including a holding period of 2 years which the bill does not impose.

Under our bill, if the company confined its capital raising activity to accredited investors, it would be able to

steer clear of paperwork both on the initial sale and on the resale of the stock.

But, the thrust of these two proposals is very similar and I hope they can be reconciled.

HEARINGS NOW UNDERWAY

Fortunately for all, the Senator from Maryland (Mr. SARBANES) has commenced a set of hearings in the Securities Subcommittee of the Senate Banking Committee. The subcommittee is addressing this vital matter on small business capital formation, and how access to capital can be facilitated for independent enterprise by possible changes to the Federal securities laws.

These hearings come at an excellent time, in view of the recommendations of the White House Conference on Small Business.

I would like to commend Senator SARBANES for his willingness to provide a forum for a discussion of these issues at this juncture.

Capital formation was voted by the White House Conference on Small Business as by far the most serious problem and greatest concern. Five out of the top 10 recommendations concerned ability to retain, recover and raise capital for the startup, expansion and survival of small business.

The Senate majority leader, the Senator from West Virginia (ROBERT C. BYRD), appointed a task force in the Senate to coordinate the implementations of those top priority White House Conference recommendations. He appointed as members the chairmen of key committees and subcommittees including the assistant majority leader, the Senator from California (Mr. CRANSTON), who serves on the Banking Committee which has jurisdiction over securities legislation, Senator CRANSTON has long been interested in the capital raising problems of new and small business. He actively participated in the Senate Small Business Committee capital formation hearings in 1979 and joined with our committee for combined hearings on that subject through his Subcommittee on Financial Institutions in early March of this year.

Other Senators have shown their interest in this area by cosponsoring S. 1940, my bill to reduce regulatory barriers to raising funds by venture capital companies, and S. 1533, a bill put forward by the Senator from Texas (Mr. TOWER), and the Senator from Indiana (Mr. LUGAR), to accomplish similar ends.

The Small Business Committee's views have been available continuously to the Securities and Exchange Commission in these matters and we are pleased now to have them before the Senate so that they can be taken into consideration by other appropriate committees.

SUMMARY

The administration is to be commended for sending up this bill and devoting its attention to the critical problems of small business capital formation, with which many of us in the Senate have also been concerned. The proposal introduced today will go before the Securities Subcommittee where hearings are already in progress on these matters.

It is my hope this legislation, and the related SEC proposal, rule 242, can receive the thoughtful consideration of the Securities Subcommittees in the Senate and the House, and an appropriate measure combining the best of both can be approved in 1980 as one of the parts of our legislative efforts to improve small business capital formation.

We at the Small Business Committee will do all that we can to advance the responsible consideration of this and other measures which will make easier the access to capital for new, small and independent firms, thereby benefiting all of our economy.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Small Business Issuers' Simplification Act of 1980."

TRANSACTIONS INVOLVING SMALL ISSUERS AND ACCREDITED INVESTORS

SEC. 2. Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end thereof the following new paragraph:

"(6) Transactions involving offers or sales by a small issuer to one or more accredited investors, provided there is no advertising or public solicitation in connection with the transaction by the issuer or anyone acting on the issuer's behalf."

RESALE OF SECURITIES

SEC. 3. Section 4(1) of the Securities Act of 1933 (15 U.S.C. 77d(1)) is amended by adding at the end thereof the following:

"For purposes of this paragraph, any accredited investor who acquired a security in a transaction to which Section 4(6) applies and who sells such security for his own account or in a fiduciary capacity shall not be deemed to be an underwriter under Section 2(11) with respect to such transaction if such sale is made to another accredited investor."

DEFINITIONS

SEC. 4. Section 2 of the Securities Act (15 U.S.C. 77b) is amended by adding the following two paragraphs:

"(15) the term 'accredited investor' shall mean

"(i) a bank as defined in Section 3(a)(2) of the Act whether acting in its individual or fiduciary capacity; an insurance company as defined in Section 2(13) of the Act; an investment company registered under the Investment Company Act of 1940; a Small Business Investment Company or Minority Enterprise Small Business Investment Company licensed by the Small Business Administration; or an employee benefit plan, including an Individual Retirement Account, which is subject to the provisions of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in Section 3(21) of such Act, which is either a bank, insurance company or registered investment adviser; or

"(ii) any person who purchases for cash at least \$100,000 of securities of the issuer sold pursuant to Section 4(6) of the Act.

"(16) The term 'small issuer' means any business entity organized or existing under the laws of any state in the United States which has or proposes to have its principal business operations in the United States and which meets two of the three following criteria:

"(i) had total assets at the end of its last fiscal year of less than \$15,000,000;

"(ii) has had total gross revenues per year in each of its last two fiscal years of less than \$30,000,000;

"(iii) has no class of securities with more than 500 record holders."

RULEMAKING AUTHORITY

SEC. 5. Section 19 of the Securities Act (15 U.S.C. 77s) is amended by adding at the end thereof the following new subsection:

"(c) The Commission shall have authority from time to time to make, amend or rescind such rules and regulations as may be necessary to revise the definitions contained in paragraphs (15) and (16) of Section 2 in accordance with the provisions of subsection (a), if it finds that such action is necessary or appropriate in the public interest or for the protection of investors. *Provided however*, That before adopting any proposed rule which would (1) increase the dollar amount contained in paragraph (15) of Section 2; or (2) decrease the dollar amounts contained in paragraph (16) of Section 2, the Commission shall afford interested persons an opportunity for public oral presentation of data, views and arguments concerning such proposed rule."

OVERALL ANALYSIS: THE SMALL BUSINESS ISSUERS' SIMPLIFICATION ACT OF 1980

GENERAL

The "Small Business Issuers' Simplification Act of 1980" is designed to alleviate the significant problems encountered by smaller businesses in attempting to raise capital in nonpublic offerings. The bill creates an exemption from the registration requirements of Section 5 of the Securities Act of 1933 (the "Act") for sales by a defined class of small issuers to an unlimited number of accredited investors as defined by the bill. Although the securities received by such accredited investor would be restricted and thus could not be resold in a public offering unless they were registered or some exemption were available, the bill creates an additional exemption from Section 5 of the Act for sales and purchases between accredited investors. The terms "small issuer" and "accredited investor" are defined by the bill, which also gives the Commission certain rulemaking authority to revise the definition as may be necessary or appropriate in the public interest or for the protection of investors.

SECTION-BY-SECTION ANALYSIS

Section 1. Title.

Section 2. Transactions Involving Small Issuers and Accredited Investors.

This section of the bill would amend Section 4 of the Act to create an exemption from the registration requirements of the Act for transactions by a small issuer solely with one or more accredited investors, provided there is no advertising or public solicitation in connection with the transaction. The terms "small issuer" and "accredited investor" are defined in Section 4 of the bill.

Section 3. Resale of Securities.

Section 3 of the bill would amend Section 4(1) of the Act to provide that any accredited investor who sells a security that was acquired in a transaction to which the newly created exemption applies will not be deemed to be an underwriter under Section 2(11) of the Act, if such sale was made to another accredited investor. Pursuant to

Section 2(11) of the Act provides in pertinent part:

The term "underwriter" means any person who has purchased from an issuer with a view to, or offers or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking.

this amendment, accredited investors would resell securities purchased under this exemption to other accredited investors without registration and without any limitation on the size of the offering or the length of time the securities were held. Moreover, securities issued and sold under this exemption would retain their exempt character in such resales without regard to subsequent changes in the size of the issuer.

Section 4. Definitions.

Section 4 of the bill would amend Section 2 of the Act by adding two paragraphs to define the terms "accredited investor" and "small issuer." The term "accredited investor" is defined as a bank, an insurance company, a small business investment company or an investment company registered under the Investment Company Act of 1940; certain employee benefit plans subject to the Employee Retirement Income Security Act of 1974; or purchasers of at least \$100,000 of securities sold in a transaction to which the newly created exemption applies. The term "small issuer" is defined as any business entity which meets two out of the three stated criteria: (a) has less than \$15,000,000 in total assets at the end of its last fiscal year; (b) has less than \$30,000,000 in total revenues in each of its last two fiscal years; or (c) has no class of securities with more than 500 record holders.

Section 5. Rulemaking Authority.

Section 5 of the bill would amend Section 19 of the Act by granting special powers to the Commission to make, amend or rescind such rules and regulations as necessary to revise the definitions of "accredited investor" or "small issuer" if such action is necessary or appropriate in the public interest or for the protection of investors. However, the bill would require the Commission to hold public hearings prior to the adoption of any rule that would increase the \$100,000 minimum purchase in the definition of an "accredited investor," or reduce the assets or revenues threshold in the definition of "small issuer." It is important that the Commission have adequate rulemaking authority to allow it to act to protect the investing public in the event that its experience demonstrates a need to restrict the availability of the exemption. This section would provide such authority.

U.S. SMALL BUSINESS ADMINISTRATION,

Washington, D.C., December 20, 1979.
Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I am pleased to transmit to the Congress for your consideration and appropriate reference the "Small Business Issuers' Simplification Act of 1979" together with a section-by-section analysis of the bill.

Our efforts as a Nation to promote long-term economic growth, to foster innovation and productivity and to create new jobs for the young people entering our economy depend to a significant degree upon the health of small business.

Small businesses account for more than 50 percent of all private employment, 43 percent of the gross national product and over half of all inventions. The small business sector plays a critical role in new job creation. In the period from 1960 through 1976, small and medium-size businesses provided virtually all of the new private sector jobs added to our economy. The Nation's largest 1,000 firms contributed less than 2 percent of the total.

It is, therefore, a matter of deep national concern that the small business community should be confronted today with serious problems and impediments, some of which arise from governmental actions at the Federal, state and local levels. Although the factors which appear to be inhibiting the creation and growth of small- and medium-sized

businesses are various, two problem areas predominate: the difficulty of raising capital to finance expansion of young companies, and the disproportionate burdens borne by smaller companies as a result of governmental regulation.

The proposed legislation which I am transmitting to the Congress today is designed to address each of these problem areas. Although its scope is limited and the advance over prior law which it represents is modest, it nevertheless reflects and seeks to implement the policy of this Administration to make government more responsive to the legitimate concerns of small business.

The "Small Business Issuers' Simplification Act of 1979" will significantly reduce the paperwork and regulatory burdens of small businesses which sell their securities to institutional investors and other persons making investments of at least \$100,000. The high costs of compliance with the registration provisions of the Federal securities laws have effectively prevented smaller businesses from raising capital in the public securities markets. The Securities and Exchange Commission has taken a number of actions within its existing statutory authority to ease these burdens. Typically, however, small issuers are confronted with the requirement, either express or implied, that they prepare a disclosure statement in connection with the offering of their securities. These documents tend in practice to be detailed and onerous to prepare. The requirement for such paperwork constitutes a needless impediment to the raising of capital where the securities are sold to a purchaser well able to fend for itself in the marketplace. Such purchasers do not require the protection of a disclosure document, because they possess the means to obtain access to the material facts about the issuer and its securities and to analyze and understand them.

By eliminating paperwork and regulatory burdens in a specified class of transactions, this legislation will facilitate the flow of capital into small businesses. The exemption provided by the bill will make it easier for small business to tap into the sizable pool of capital at the disposal of institutional investors.

The exemption from the registration provisions of the Federal securities laws provided for in the bill has been carefully drawn to ensure that no risks are posed to small investors. For such persons, the public disclosure protections of existing law remain in full force. Moreover, the antifraud guarantees of existing law remain in full effect for all transactions covered by the bill.

I urge the Congress to give the draft legislation its prompt and favorable consideration.

The Office of Management and Budget has advised that it has no objection to the submission of this bill and that its enactment by the Congress would be consistent with the Administration's programs.

Sincerely,

A. VERNON WEAVER,
Administrator.●

By Mr. METZENBAUM:

S. 2700. A bill to give the Government National Mortgage Association—Ginnie Mae—the legal authority to forgive outstanding mortgage payments on Lanham Act properties where it is shown that the property was sold at a price higher than the appraised market value; to the Committee on Banking, Housing, and Urban Affairs.

Mr. METZENBAUM. Mr. President, the legislation I am introducing today is designed to give the Government National Mortgage Association—Ginnie Mae—the legal authority to forgive out-

standing mortgage payments on Lanham Act properties where it is shown that the property was sold at a price higher than the appraised market value. Although this legislation would give Ginnie Mae that authority in all such instances, it is specifically designed to assist a major housing project in Lincoln Heights, Ohio, near Cincinnati, which has been described as the largest all-black city in the country.

I believe that the people who live in that project—the Valley Homes project, which is owned by a black veterans cooperative—have been wronged. This legislation would give Ginnie Mae and the Federal Government a chance to right that wrong. Valley Homes has 350 units and about 1,700 residents. It was originally built in 1941 to house defense workers at the Wright aeronautical plant during World War II and was then sold by the Federal Government to the black veterans cooperative as surplus housing. According to a 1953 appraisal discovered in the Public Housing Administration's records, that project was appraised at \$1,005,200, but was actually sold by the Federal Government to the veterans for \$1.4 million—an overcharge of \$400,000. Despite this apparent overcharge, and other evidence that the citizens in that community have been discriminated against, Ginnie Mae officials contend that they are legally unable to forgive the outstanding debt. That refusal has compounded a wrong that has already lasted more than 25 years.

It would be unjust to ask the Valley Home residents to repay an unfair debt. Many of those residents simply cannot afford that additional burden. In addition, it has been estimated that the projects needs an additional \$5 to \$7 million in repairs to fully rehabilitate the project. If citizens who now live in the project were forced to bear those costs, many would be forced out altogether. The Valley Homes Board has submitted an application to the Department of Housing and Urban Development for section 8 rehabilitation assistance, and my office has been in contact with HUD urging officials to make as much assistance available as possible.

Mr. Les Edwards, president of the Valley Homes Board, and Mr. Paul White, city manager of Lincoln Heights, have requested that I introduce this legislation. I am happy to do so, and I pledge to continue working with those local leaders to help the Valley Homes cooperative in the months ahead.

By Mr. LUGAR (by request):

S. 2702. A bill to correct an inequity in public housing sales; to the Committee on Banking, Housing, and Urban Affairs.

● Mr. LUGAR. Mr. President, at the request of Representative BILL GRADISON, of Ohio, I am introducing a bill to correct an inequitable Federal Government decision made in 1954. This action involved the sale of a World War II civilian housing project by the Public Housing Administration to the Valley Homes Mutual Housing Corp., a group of 350 families in Lincoln Heights, Ohio. Lincoln Heights is an all-black community with one of the lowest per capita incomes

in the State. Approximately 30 percent of the units in Valley Homes are occupied by senior citizens and the total family income in nearly half of the units is below \$6,000 per year.

The sale price was approximately \$400,000 above the Federal Government's own appraisal of the property's fair market value. The residents were not aware of this fact until recently. If the original sale had been closed using the fair market value, the loan would have been paid off 12 years ago. Instead, Valley Homes is still indebted to the Government by an amount which is approximately equal to the original overcharge.

Since the residents of Valley Homes have, in fact, paid enough to the Government over the last 26 years to more than cover the value of the property when it was sold to them in 1954, it is only fair that the outstanding mortgage be canceled. The bill that I am introducing would provide the Government National Mortgage Association—the mortgagee—with the authority, which GNMA claims it lacks, to cancel the 1954 overcharge. Last week, the House Subcommittee on Housing and Community Development unanimously adopted an identical measure as a provision of the fiscal year 1981 housing authorization bill.

This legislation would rectify the earlier injustice which clearly is inconsistent with the Government's obligation to assure that affordable and decent housing is available to our Nation's poor.

I am especially pleased to lend my support to Congressman GRADISON's legislation. His leadership and unflagging energy has resulted in a solution to a problem that would have gone unsolved without him. But it comes as no surprise that once again BILL GRADISON is solving important problems for his district. As a Member of the House for 5 years, he has been an extremely able Congressman serving the Nation in a manner consistent with the highest levels of public service.●

By Mr. PROXMIRE:

S. 2704. A bill to amend the Federal Reserve Act to authorize the Board of Governors of the Federal Reserve System to establish margin requirements for transactions in financial instruments; to the Committee on Banking, Housing, and Urban Affairs.

REGULATION OF TRADING IN FINANCIAL INSTRUMENTS

Mr. PROXMIRE. Mr. President, I am introducing today a bill to authorize the Federal Reserve Board to regulate transactions in certain financial instruments. Under the bill, the Board could set margin requirements against loans used to finance the purchase of a financial instrument. The Board could also prescribe the deposit to be furnished and maintained by investors in futures contracts involving financial instruments. A financial instrument is defined to include any security that is not otherwise subject to the Board's margin authority under the Securities and Exchange Act. For the most part these include securities issued by or guaranteed by the Federal Government. The bill also covers transac-

tions in foreign exchange, gold, silver, or any other item which the Board determines to have monetary characteristics or is a store of value. However, the bill specifically precludes the regulations of transactions in agricultural commodities.

Mr. President, the recent extreme price swings in the silver market have pointed up a serious gap in our laws and regulations designed to curb excessive speculation. One of the principal reasons for the stock market collapse in 1929 was due to excessive speculation in securities which, to a large extent, was fueled by bank credit. When the stock market took a nose-dive, many banks were also dragged down. In order to prevent a reoccurrence, Congress authorized the Federal Reserve Board to prescribe margin requirements on loans used to finance the purchase of securities. For the most part the margin authority has achieved its intended objectives. However, the authority does not apply to all financial instruments, and these exemptions have become increasingly important with the growing scope and sophistication of our financial markets.

For example, today it is possible for investors to amass sizable speculative positions in gold, silver, or other unregulated financial instruments through the use of borrowed money. Unless we have some means of curbing the amount of speculative activity in these instruments we will run increasingly greater risks of serious financial repercussions. For example, a sudden and steep drop in the price of these instruments can threaten the safety and soundness of the financial institutions making the loans. Also, the easier it is to borrow to speculate on gold or silver the more credit is diverted from productive investments in real economic activity.

We have the lowest rate of productivity increase of any major country. Moreover small businessmen, home builders and buyers, farmers, and others are starved for credit. At the same time, investors who speculate in gold or silver or other financial instruments seem to have no trouble in obtaining credit to finance their speculative purchases. I believe margin requirements on loans used to buy gold or silver or other financial instruments will curb excessive speculative activity and make more credit available for productive investments in our economy.

Mr. President, a second gap in our regulatory system involves the establishment of deposit requirements on futures contracts. Under present regulatory arrangements, no governmental agency has the authority to prescribe deposit requirements except in unusual or extraordinary circumstances, and that authority has never been used. As a practical matter, the authority to set and revise deposit requirements is lodged exclusively with the Nation's various commodity exchanges. Until recently, activity on these exchanges has been confined to agricultural commodities. However, during the last few years they have moved heavily into financial futures. Today we have futures contracts not only on gold and silver, but on the major

foreign currencies, Treasury bills, Treasury bonds, and GNMA securities. Applications are pending for many other financial instruments including a futures contract on the Dow-Jones stock market index.

The rapid development of financial futures markets has dramatically changed the nature and impact of futures trading. The ratio of speculative to hedging transactions seems to be much greater in financial futures trading compared to agricultural futures. Moreover, the consequences of excessive speculation can be far more serious on our financial system. The Federal Reserve and Treasury are especially concerned that trading in futures contracts on Treasury securities can complicate debt management and monetary policy. For example, the Treasury could be forced to alter the maturity structure of its obligation in order to prevent a squeeze from developing on a particular issue. Likewise, the Federal Reserve Board's open market operations might have to be revised out of the same considerations.

The growth of the financial futures market will likely continue at a high rate over the next few years as more and more brokerage houses attempt to make up for the decline in interest in the stock market on the part of individual investors. Thus more and more individual investors will be attracted to financial futures but without the regulatory safeguards established in the equity securities market. For the most part, trading in agricultural futures contracts has involved a relatively small group of highly sophisticated investors. However the financial futures market is likely to draw upon a much larger and somewhat less sophisticated group of investors. Therefore, the regulatory arrangements that may have been appropriate for agricultural futures trading are, in my opinion, no longer appropriate for the growing financial futures market.

One particular problem that was highlighted in the silver case is the ability of investors to pyramid their positions by using their daily profits to buy more futures contracts. Under the deposit rules established by the commodity exchanges, investors in futures contracts who profit from a change in price are able to withdraw their profits in cash on a daily basis. By the same token, investors whose positions are adversely affected by a price change are required to post an additional deposit to cover their losses. Nevertheless, in a rising market those who have taken a long position are able to push the price still higher by using the cash derived from their paper profits to put back in the market.

When the initial deposit requirement is a small percentage of the value of the contract, as it tends to be on most futures contracts, the leverage can be substantial. For example, if the initial deposit requirement is 2 percent than a mere 2-percent increase in the price can enable an investor to double his position overnight if he uses the paper profits to buy another futures contract. When a market is dominated by speculative investors, the ability to pyramid sounds like a built-in

prescription for instability. Many market observers believe that pyramiding could be effectively curbed by requiring that any profits on a futures contract not be paid until the contract delivery date. Losses, of course, would continue to be posted as presently required. Under the bill I have introduced the Federal Reserve Board would have the authority to institute this change on futures contracts involving financial instruments.

Mr. President the Senate Committee on Banking, Housing, and Urban Affairs is holding a general oversight hearing on the recent developments in the silver market and on the adequacy of our system for regulating trading in financial instruments. I expect these hearings will also focus on the legislation I have introduced. I am certainly not wedded to the details of the legislation and I am willing to accept any reasonable modifications designed to make the bill more practical and workable. I am mindful of the constructive economic benefits flowing from our highly developed financial futures market and it is certainly not my intent to shut these markets down. Nonetheless, enough problems have been suggested that I believe it is in the long run interest of all parties to work out a more stable regulatory framework that will serve the needs of the market in the years ahead. It is certainly better to attempt to forge that consensus now rather than awaiting a financial crisis when the governmental response is likely to be far more rigid in its approach.

By Mr. BIDEN (for himself, Mr. MATTHIAS, Mr. KENNEDY, and Mr. THURMOND):

S. 2705. A bill to amend chapter 207 of title 18, United States Code, relating to pretrial services; to the Committee on the Judiciary.

PRETRIAL SERVICES ACT OF 1980

Mr. BIDEN. Mr. President, today I am introducing, along with Senators MATTHIAS, KENNEDY, and THURMOND, the Pretrial Services Act of 1980. This act will provide pretrial services in each Federal district to assist judicial officers in making appropriate pretrial release decisions and to supervise and monitor conditions of pretrial release.

The Pretrial Services Agencies had their origin in the preventive detention provisions of President Nixon's anticrime program. Attorney General Mitchell told the House Judiciary Committee in 1969 that crime committed by persons free on bail was a "major factor in the rising crime rate." Senator Ervin believed that preventive detention was the wrong solution. His position, based upon a Justice Department study of crime on bail, was that the preventive detention proposal would result in the detaining of as many as 19 nondangerous defendants for each dangerous defendant.

He also argued that pretrial detention did not reach the real source of the problem—the longer the period of time before trial, the more frequent and serious a second crime. Senator Ervin concluded that the real solution to crime on bail was: First, speedy trial, second, informed bail decisions, and third, bail supervision. His proposals were enacted

in titles I and II of the Speedy Trial Act of 1974. Title II of the Speedy Trial Act of 1974 established pretrial service agencies in 10 demonstration districts.

The function of the agencies was specifically designed to assist the court in meeting the goals of the Bail Reform Act of 1966.

The Bail Reform Act established a presumption in favor of release on personal recognizance or unsecured bond. If personal recognizance or unsecured bond are inadequate, the court is directed to impose the least restrictive condition of release necessary to assure appearance. Despite general agreement that the goals of the Bail Reform Act are valuable, the sponsors of title II noted that many Federal judges are reluctant to release defendants and all too often when they do, defendants either commit subsequent crimes or become fugitives. This situation exists because district courts do not have adequate personnel to make informed decisions on whether to release defendants. After conditions of release are imposed there is no agency charged with supervising bail conditions outside the District of Columbia. The Pretrial Services Agencies perform these essential functions.

The value of Pretrial Services Agencies is well established. In October 1978, the General Accounting Office issued a report, "The Federal Bail Process Fosters Inequities." That report included the following findings and recommendations:

The Bail Reform Act requires judicial officers to set bail based on available information about the defendant and the crime. While information concerning the crime charged is almost always available at the initial bail hearing, information on the defendant's personal and criminal background is often incomplete and unreliable. As a result, some judicial officers believe they must detain some defendants until more information is available. Others sometimes inadvertently release defendants who probably would not have been released if more had been known about them.

Most district courts have limited means for providing needed information about defendants. As a result, judicial officers often receive incomplete and conflicting information from the assistant U.S. attorney, defendant, and defense counsel and must set bail based on this incomplete and conflicting information. Without a source for accurate information, judicial officers sometimes resort to other methods of getting good information. For example, judicial officers in one district placed defendants under oath when trying to get information about their prior criminal history. We identified three FTA cases in that district where the defendants gave false information which the magistrates relied on in setting bail conditions. The magistrates in these cases said they probably would have set higher bail amounts if they had known of the defendants' prior records.

Several magistrates told us that, without complete and reliable information, they set bail to detain defendants until more information becomes available. Many of these defendants are later released. For example, the bail for codefendants accused of drug-related crimes was reduced and the defendants released after 6 days of detention when new information on their financial resources and community ties was presented to the magistrate. If this information had been presented at the initial appearance, the magistrate said a lower bail would have been set and the defendants probably released. Both defendants were sentenced to proba-

tion so the only time they served in jail was prior to trial. The information which was later made available to the judicial officer in this example and which triggered the change in release conditions could have been available initially if the districts had had a way to provide verified information to their judicial officers.

The lack of complete and reliable information can also result in high-risk defendants being released. For example, a defendant arrested on a narcotics charge was released on a \$1,000 unsecured bond. He failed to appear and was later arrested for attempted murder. When the magistrate set bail, he did not know about the defendant's lengthy criminal record which included escape from prison. The magistrate told us he would have set a much higher bond had he known about the length and seriousness of the defendant's prior record.

In another case a defendant accused of possession with intent to distribute heroin was released on a \$5,000 corporate surety bond and subsequently failed to appear. At the time the magistrate set bail, he did not know about the defendant's drug addiction, prior failure to appear, felony conviction, and pending felony charge. The magistrate said he would have set a higher bail to detain the defendant if he had known.

These examples demonstrate that a lack of complete information on defendants can often result in inappropriate bail decisions. Most magistrates in the 10 districts with PSAs told us the PSAs were available to provide them this information, many bail decisions were made in a vacuum and "by the seat of the pants."

We recommend that the Chief Justice, in his capacity as Chairman of the Judicial Conference, work with the Conference; the Director, Administrative Office of the U.S. Courts; and the Director, Federal Judicial Center, to develop and implement a program to assist judicial officers in making sound and consistent bail decisions. Such a program, at a minimum, needs to clarify the legitimate purposes of bail; present information and guidance on how the criteria listed in the Bail Reform Act relate to determining appropriate conditions of release; develop ways to promote greater use of secured appearance bonds rather than corporate surety bonds; and eliminate the practice of placing blanket restrictions on all defendants without regard to a defendant's danger of nonappearance.

We also recommend that the Judicial Conference provide the means for judicial officers to have more complete and accurate information on defendants in making bail decisions.

Under title II of the Speedy Trial Act of 1974 the Director of the Administrative Office of the U.S. Courts is required to report annually to Congress on the accomplishments of the Pretrial Services Agencies. The Director issued his fourth annual report to the Congress in June 1979. The report, paid particular attention to the agency's effectiveness in: First, reducing crime on bail; second, in reducing the volume and cost of unnecessary pretrial detention; and third, in improving the operation of the Bail Reform Act. The data collected by the Administrative Office of the U.S. Courts was also analyzed by the Federal Judicial Center to assist the Probation Committee of the Judicial Conference.

The legislation I am introducing today is based in large part upon the analyses and recommendations contained in those reports. In addition it reflects the substantial input of a wide variety of judges, magistrates, pretrial services of-

fices, U.S. attorneys and defense counsel and others who have experience in the 10 demonstration districts before the implementation of pretrial services and after.

This legislation continues pretrial services in the 10 demonstration districts and expands the program to reach all defendants in every district. The specific manner in which the services will be provided is necessarily flexible. The criminal caseload in some districts is so small that a full-time pretrial services officer is not warranted. The bill allows for a part-time pretrial services officer to provide services as needed.

The expansion of pretrial services agencies is supported by the Administrative Office of the U.S. Courts, the Judicial Conference of the United States, the Department of Justice and the ABA.

The cost of pretrial services agencies is one of its most important features. It is estimated that pretrial services can be available for every Federal defendant at an annual cost of approximately \$12 million. This amount is insignificant when compared with the savings, in both human and financial terms, resulting from a reduction in crimes on bail now committed by persons not provided with pretrial services. Pretrial services result in further savings by greatly reducing unnecessary pretrial incarceration which now exceeds \$20 per day.

The Subcommittee on Criminal Justice will hold a hearing on pretrial services agencies on May 13. Witnesses include Judge Gerald B. Tjoflat, Chairman of the U.S. Judicial Conference Committee on the Administration of the Probation System; Chief Judge Edward S. Northrup and Judge Joseph H. Young of the Federal District Court for Maryland; Mr. Guy Willetts, Chief of the Pretrial Services Branch of the Administrative Office of the U.S. Courts; U.S. attorneys and pretrial services officers from the demonstration districts; and Mr. Bruce Beaudin, Director of the D.C. Pretrial Services Agency.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2705

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pretrial Services Act of 1980".

SEC. 2. Section 3152 of title 18, United States Code, is amended to read as follows: "§ 3152. Establishment of pretrial services agencies.

"The Director of the Administrative Office of the United States Courts (hereinafter in this chapter referred to as the 'Director') shall under the supervision and direction of the Judicial Conference of the United States provide directly, or by contract or otherwise, for the establishment of a pretrial services agency in each judicial district (other than the District of Columbia) with respect to which the appropriate United States district court and circuit judicial council have recommended such establishment."

SEC. 3. Section 3153 of title 18, United States Code, is amended to read as follows:

"§ 3153. Organization and administration of pretrial services agencies.

"(a) The pretrial services agencies established under section 3152 of this title shall be under the general authority and direction of a separate entity established within the Administrative Office of the United States Courts by the Director.

"(b) Each pretrial services agency shall be headed by a chief pretrial services officer selected by a panel consisting of chief judge of the circuit, the chief judge of the district and a magistrate of the district or their designees.

"(c) (1) With the approval of the district court, the chief pretrial services officer shall appoint such other personnel as may be required to staff the agency. The position requirements and rate of compensation of the chief pretrial services officer and such other personnel shall be established by the Director with the approval of the Judicial Conference of the United States, except that no such rate of compensation shall exceed the rate of basic pay in effect and then payable for grade GS-16 of the General Schedule under section 5332 of title 5, United States Code.

"(2) The chief pretrial services officer is authorized, subject to the general policy established by the Director and the approval of the district court, to procure temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code. The staff of the agency, other than clerical, may be drawn from law school students, graduate students, or such other available personnel.

"(d) An individual who is a probation officer appointed under section 3654 of this title may perform functions and duties of an officer or employee of a pretrial services agency except a function or duty of the chief pretrial services officer.

"(e) (1) Except as provided in paragraph (2) of this subsection, information contained in the files of any pretrial services agency, presented in an agency report, or divulged by the agency during the course of any hearing, shall be used only for the purposes of a bail determination and shall otherwise be confidential. The agency report shall be made available to the attorney for the accused and the attorney for the government.

"(2) The Director shall issue regulations establishing the policy for release of information contained in the files of each pretrial services agency. Such regulations shall provide exceptions to the confidentiality requirements under paragraph (1) of this subsection to allow access to such information—

"(A) by qualified persons for purposes of research related to the admission of criminal justice;

"(B) by persons under contract under section 3154(a) of this title;

"(C) by probation officers for the purpose of compiling presentence reports;

"(D) insofar as such information is a pretrial diversion report, to the attorney for the accused and the attorney for the government; and

"(E) in certain limited cases, to law enforcement agencies for law enforcement purposes.

"(3) Information contained in the files of any pretrial services agency is not admissible on the issue of guilt in any criminal judicial proceeding, except that such information, if otherwise admissible, may be admitted on the issue of guilt for a crime committed in the course of obtaining pretrial release."

SEC. 4. Section 3154 of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking out "such of the following" and all that follows through "specify" and inserting in lieu thereof "the following functions";

(2) so that paragraph (1) reads as follows: "(1) collect, verify, and report to the judicial officer, prior to the pretrial release hearing, information pertaining to the pretrial release of each individual charged with an offense, and recommend appropriate release conditions for such individual."

(3) in paragraph (4), by striking out "With the cooperation of the Administrative Office of the United States Courts, and with the approval of the Attorney General, operate or contract for the operation of" and inserting "Provide for" in lieu thereof;

(4) in paragraph (5), by inserting "and the United States attorney" after "court";

(5) so that paragraph (9) reads as follows: "(9) Perform other functions under this chapter;" and

(6) by adding at the end the following: "(10) Develop and implement a system to monitor and evaluate bail activities, provide information to judicial officers on the results of bail decisions, and prepare periodic reports to assist in the improvement of the bail process."

"(11) To the extent provided for in an agreement between the pretrial services agency and the United States Attorney, collect, verify, and prepare reports for the United States Attorneys Office of information pertaining to the pretrial diversion of any individual who is or may be charged with an offense, and perform such other duties as may be required under any such agreement."

"(12) Make contracts for the carrying out of any of the functions of such pretrial services agency."

SEC. 5. Section 3155 of title 18, United States Code, is amended to read as follows:

"§ 3155. Annual reports.

"Each chief pretrial services officer shall prepare an annual report to the chief judge of the district court and the Director concerning the administration and operation of the agency. The Director shall be required to include the Director's annual report to the Judicial Conference under section 604 of title 28, United States Code, a report on the administration and operation of the pretrial services agencies for the previous year.

SEC. 6. The table of sections for chapter 207 of title 18, United States Code, is amended—

(1) in the item relating to section 3153, by inserting "and administration" after "Organization"; and

(2) so that the item relating to section 3155 reads as follows:

"3155. Annual reports."

By Mr. GRAVEL:

S. 2706. A bill to establish a 100-percent observer program on all foreign fishing vessels in the U.S. 200-mile fishery conservation zone; to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations, jointly, by unanimous consent.

● Mr. GRAVEL. Mr. President, today I am submitting legislation which would require that every foreign vessel that fishes in the U.S. 200-mile fishery conservation zone have an American observer on board. At present the level of observation on foreign vessels that fish within the 200-mile zone varies from 5 percent to 20 percent, with coverage off Alaska generally falling at the lower end of that range. In my opinion, and in the opinion of most of the fishing constitu-

ency of my State, that percentage is altogether too low.

Since the inception of the Fishery Conservation and Management Act in 1976 the fisheries off the Alaskan coast have undergone an incredible change. The significance and value of the so-called "underutilized species" off the shores of Alaska, which are the target of most of the foreign fishing activity, are being seen in a new light. In a protein hungry world, the proper management and conservation of these numerous fishery species in the oceans of the American coasts are more important than ever before. They must be properly protected or they run the danger of being permanently damaged or even destroyed.

The 200-mile legislation set forth the American policy that fishing by foreign nations off the U.S. coast should be allowed. Any species which Americans are not interested in and capable of harvesting can be fished by foreign nations. They are only required to make an application for the desired species and pay a nominal permit fee for the privilege of fishing in the U.S. 200-mile zone.

By and large, this system has worked quite well. The U.S. National Marine Fisheries Service sets the quotas at which fishing by these foreign vessels can take place and the Coast Guard enforces the terms of the permits to insure that fishing for species other than those specifically allowed by permit or that fishing for quantities in excess of that permitted does not occur.

Of late, the number and seriousness of the fishing violations have become increasingly greater, especially off the coast of Alaska. There have been very significant cases of both underreporting and the taking of prohibited species by foreign fishing entities. Management of a fishery is difficult in any event but when these singular violations are extrapolated throughout the entire foreign fleet the underreporting may be astronomical in size. The managers of the stocks in these areas have no reliable data upon which to base their predictions and their quotas which leaves them in a most precarious situation.

I believe that the fishery resource of the north Pacific is of sufficient value that every foreign vessel that plys those waters should have a full-time American observer on board. Those individuals should have sufficient training that they can readily identify the species of the area where they are in service. And, in addition, I believe that the foreign vessels should bear the entire cost of training, transporting, paying, and maintaining each observer as a condition of their being issued a permit to fish. The cost would be minimal—maybe \$15,000 per vessel per year; the benefit would be substantial.

So, today, Mr. President, I am offering a bill to require full observer coverage on all foreign vessels which are issued a permit to fish within the U.S. fishery conservation zone. The number and seriousness of the violations which have occurred of late leave us with no other alternative if we are to insure the con-

tinued health of the invaluable natural fisheries resources off our shores.

I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2706

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. ESTABLISHMENT OF FULL OBSERVER PROGRAM.

Section 201 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821) is amended by adding at the end thereof the following new subsection:

(1) OBSERVER PROGRAM.—(1) The Secretary shall establish a program under which at least one United States observer will be stationed aboard each foreign fishing vessel while that vessel is within the fishery conservation zone and is—

“(A) engaging in fishing;

“(B) accepting United States harvested fish through transfer at sea;

“(C) cruising to and from a location at which any such fishing or transfer will transpire; or

“(D) taking highly migratory species if such taking may result in the incidental taking of species over which the United States exercises fishery management authority.

“(2) United States observers, while aboard foreign fishing vessels, shall carry out such scientific and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this Act.

“(3) In addition to any fee imposed under section 204(b)(10) of this Act and section 10(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980(e)) with respect to foreign fishing for any year after 1980, the Secretary shall impose, with respect to each foreign fishing vessel for which a permit is issued under such section 204, a surcharge in an amount sufficient to cover all the costs of providing a United States observer aboard that vessel. The failure to pay any surcharge imposed under this paragraph shall be treated by the Secretary as a failure to pay the permit fee for such vessel under section 204(b)(10).

“(4) PAYMENT OF COSTS.—The owner and operator of each fishing vessel to which an observer is assigned shall reimburse the United States for the total costs of placing the observer aboard, including training, salary, per diem, transportation of observers, and overhead costs.

“(5) While a United States observer is aboard a foreign fishing vessel as required under this subsection, such vessel shall display an insignia (in such form and such manner as the Secretary shall by regulation establish) that will indicate that such an observer is aboard.

“(6) TRAINING.—The Secretary shall provide United States observers and observer assistants such training as may be necessary.

“(7) TRANSPORTATION.—The Secretary of the department in which the Coast Guard is operating shall provide transportation for United States observers and observer assistants to and from the foreign fishing vessels with respect to which they are carrying out duties and functions provided for under this section.”.

SEC. 312. EFFECTIVE DATE.

The amendment made by section 311 shall take effect October 1, 1980, and shall apply with respect to permits issued under section 204 of the Fishery Conservation and Management Act of 1976 after December 31, 1980. ●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill introduced by the Senator from Alaska (Mr. GRAVEL), establishing a 100-percent observer program on all foreign fishing vessels in the U.S. 200-mile fishery conservation zone, be jointly referred to the Committees on Commerce, Science, and Transportation and Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered

ADDITIONAL COSPONSORS

S. 336

At the request of Mr. MATHIAS, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 336, a bill to amend the Internal Revenue Code of 1954.

S. 1629

At the request of Mr. JACKSON, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 1629, a bill to amend section 9441 of title 10, United States Code, to provide for budgeting by the Secretary of Defense, the authorization of appropriations, and the use of those appropriated funds by the Secretary of the Air Force, for certain specified purposes to assist the Civil Air Patrol in providing services in connection with the noncombatant mission of the Air Force.

S. 1825

At the request of Mr. NELSON, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1825, a bill to amend the Internal Revenue Code of 1954 to adjust the unified credit against estate and gift taxes to take into account the rate of inflation.

S. 2079

At the request of Mr. BAYH, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 2079, a bill to improve the administration of the patent and trademark laws by establishing the Patent and Trademark Office as an independent agency, and for other purposes.

S. 2220

At the request of Mr. NELSON, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 2220, a bill to amend the Internal Revenue Code of 1954 to provide for the exclusion from the gross estate of a decedent of a portion of the value of certain interests in a farm or trade or business if the spouse or children of the decedent materially participate in such farm or trade or business.

S. 2441

At the request of Mr. BAYH, the Senator from Iowa (Mr. CULVER), the Senator from Arizona (Mr. DECONCINI), the Senator from Montana (Mr. BAUCUS), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. DOLE), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 2441, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

S. 2511

At the request of Mr. BAYH, the Senator from Massachusetts (Mr. KENNEDY)

was added as a cosponsor of S. 2511, a bill to amend the Civil Rights Act of 1957 to authorize appropriations for the U.S. Commission on Civil Rights for fiscal year 1981.

S. 2521

At the request of Mr. DOLE, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 2521, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

S. 2580

At the request of Mr. SCHWEIKER, the Senator from Idaho (Mr. CHURCH) and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 2580, a bill to amend the Immigration and Nationality Act to provide procedures for administrative correction of the dates of birth of certain naturalized citizens.

S. 2581

At the request of Mr. CHURCH, the Senator from Michigan (Mr. LEVIN) and the Senator from South Dakota (Mr. MCGOVERN) were added as cosponsors of S. 2581, a bill to amend title 5 of the United States Code and the Internal Revenue Code of 1954 to provide certain benefits to individuals held hostage in Iran and to similarly situated individuals.

S. 2582

At the request of Mr. CHURCH, the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2582, a bill to provide for the settlement and payment of claims of civilian and military personnel against the United States for losses in connection with the evacuation of such personnel from a foreign country.

SENATE JOINT RESOLUTION 152

At the request of Mr. MATHIAS, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of Senate Joint Resolution 152, a joint resolution to authorize and request the President to designate the week of September 21 through 27, 1980, as "National Cystic Fibrosis Week."

SENATE JOINT RESOLUTION 159

At the request of Mr. DOLE, the Senator from Iowa (Mr. JEPSEN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of Senate Joint Resolution 159, a joint resolution disapproving the action taken by the President under the Trade Expansion Act of 1962 in imposing a fee on imports of petroleum or petroleum products.

SENATE JOINT RESOLUTION 161

At the request of Mr. BENTSEN, the Senator from Maryland (Mr. MATHIAS), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of Senate Joint Resolution 161, a joint resolution proposing an International Code of Business Conduct.

SENATE JOINT RESOLUTION 168

At the request of Mr. DOLE, the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Illinois (Mr. PERCY) were added as cosponsors of Senate Joint Resolution 168, a joint resolution designating July 18, 1980, as "National POW-MIA Recognition Day."

SENATE CONCURRENT RESOLUTION 92

At the request of Mr. CHAFEE, the Senator from Indiana (Mr. BAYH), the Senator from Georgia (Mr. TALMADGE), the Senator from Iowa (Mr. JEPSEN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Connecticut (Mr. WEICKER), and the Senator from Wyoming (Mr. SIMPSON) were added as cosponsors of Senate Concurrent Resolution 92, a concurrent resolution declaring that the Congress does not favor the withholding of income tax on interest and dividend payments.

SENATE RESOLUTION 405

At the request of Mr. PROXMIRE, the Senator from Arizona (Mr. DECONCINI), and the Senator from West Virginia (Mr. ROBERT C. BYRD) were added as cosponsors of Senate Resolution 405, a resolution expressing the sense of the Senate with respect to compliance by the Soviet Union with the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

SENATE RESOLUTION 414

At the request of Mr. STEWART, the Senator from Oklahoma (Mr. BOREN), the Senator from Alabama (Mr. HEFLIN), the Senator from Indiana (Mr. LUGAR), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Maryland (Mr. SARBANES), the Senator from Michigan (Mr. LEVIN), the Senator from Montana (Mr. BAUCUS), and the Senator from California (Mr. CRANSTON) were added as cosponsors of Senate Resolution 414, a resolution to commend the National Forensic League on its Golden Anniversary Tournament.

SENATE RESOLUTION 422

At the request of Mr. DOLE, the Senator from Alabama (Mr. STEWART) was added as a cosponsor of Senate Resolution 422, a resolution to proclaim National Circle K Week.

AMENDMENT NO. 1690

At the request of Mr. MATHIAS, the Senator from Wisconsin (Mr. PROXMIRE) was added as a cosponsor of amendment No. 1690 intended to be proposed to S. 1722, a bill to codify, revise, and reform title 18 of the United States Code; and for other purposes.

SENATE CONCURRENT RESOLUTION 93—SUBMISSION OF A CONCURRENT RESOLUTION RECOGNIZING THE CONGRESSIONAL OBLIGATION TO INSURE AN ADEQUATE STANDARD OF LIVING FOR THE ELDERLY

Mr. MOYNIHAN submitted the following concurrent resolution, which was

referred to the Committee on Labor and Human Resources:

SENATE CONCURRENT RESOLUTION 93

Whereas Congress and the President have stated their intent to balance the budget; and

Whereas, if the budget were to be balanced at the expense of programs designed to aid the elderly, severe hardships would be experienced by our senior citizens who already have difficulty in making ends meet; and

Whereas one out of every four senior citizens lives below the poverty line; and

Whereas 30 percent of all senior citizens live in substandard housing and receive inadequate health care; and

Whereas in retirement the average senior citizen can expect to have an annual income of less than half what it was during his or her working years; and

Whereas with inflation the senior citizen's already insufficient income will buy less and less as he or she grows older; and

Whereas these same senior citizens can expect annual health care costs of \$1,500—more than four times the costs for the average non-senior citizen; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That our senior citizens who spent their lives building America have the right to live out their remaining years in dignity, without the fear of having to choose between staying warm, eating, living in decent housing, or receiving adequate health care; and the Congress has the obligation to fund, and to seek continuously to improve, those programs which have been designed to ensure an adequate standard of living for the elderly.

● Mr. MOYNIHAN. Mr. President, the first concurrent budget resolution is now almost behind us. I am glad to see that most programs for the elderly have survived relatively unscathed, despite a veritable hail of proposals which would have, in effect, balanced the budget on their backs. But future budgets and other decisions pose similar threats to the well-being of our aged and retired citizens.

We must guard against cuts which would impose unbearable hardship on those persons and groups in the greatest need. We must not force our already hard-pressed senior citizens, many of them struggling under the double burden of reduced income and spiralling inflation, to choose between warmth and food, between housing and health care. We must not trample on the dignity and security our senior citizens have earned. We must reaffirm our commitment to the principle that the Federal Government should do all that is necessary to assure the financial security of our Nation's elderly. To this end, I am submitting a concurrent resolution reaffirming the obligation of Congress to insure an adequate standard of living for the elderly. This resolution is identical to the one being introduced in the House by my friend and colleague, Congressman CHARLES RANGEL of New York's 19th District.

I urge its rapid and favorable consideration. ●

SENATE CONCURRENT RESOLUTION 94—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO A LIMITATION ON IMMIGRANTS FOR 1980

Mr. HUDDLESTON (for himself and Mr. BURDICK) submitted the following concurrent resolution which was referred to the Committee on the Judiciary:

S. CON. RES. 94

Whereas legal immigration into the United States is at the highest level in over fifty years, exceeding the total immigration level for all other free nations combined;

Whereas pressures to immigrate to the United States are enormous and growing steadily, fueled by dramatic population growth and inadequate economic expansion in foreign countries;

Whereas immigration pressures are further exacerbated by the policies of certain foreign governments which encourage or force the mass exodus of hundreds of thousands of their citizens, with the expectation that they will be admitted to the United States;

Whereas the expulsion of these unwanted and discontented citizens serves to support totalitarian regimes by reducing pressures for internal change and accommodation of human rights;

Whereas the United States cannot act as a safety valve for regimes that are oppressive or incapable of fostering an adequate standard of living for their people;

Whereas continued unchecked immigration to the United States will complicate and delay the solution of important national problems such as excessive Federal spending, inflation, energy shortages, and unemployment;

Whereas Congress is attempting to reduce Federal spending wherever possible in order to balance the budget, and such attempts will result in reductions in many programs which benefit the American people;

Whereas the direct cost to the American taxpayers for assistance to refugees will be at least \$1,720,000,000 in fiscal year 1980 and \$2,110,000,000 in fiscal year 1981;

Whereas increased admissions will cause these costs to escalate substantially; and

Whereas prior to the completion of the work of the Select Commission on Immigration and Refugee Policy, the United States should establish an interim policy on immigration levels: Now, therefore, be it

Resolved, by the Senate (the House of Representatives concurring) That it is the sense of the Congress that the United States shall not admit more than 650,000 immigrants, including refugees, in fiscal year 1980 and, that the President shall submit to the Congress an annual total immigration goal for the United States.

● Mr. HUDDLESTON. Mr. President, once again, with thousands of Cubans entering our country in flight from a repressive regime, we are confronted with the fact that neither the Congress nor the President has firm control over our immigration levels. Neither do we have control over the amount of taxpayer money that we will have to spend to screen, process, and resettle these new immigrants.

The fact is that Fidel Castro, the Marxist dictator of Cuba, with assistance from the Cuban exiles in Florida, has usurped U.S. immigration policy.

This country's tradition of opening its doors to oppressed people from throughout the world is well established and has

played a significant role in the development and strength of our Nation. However, even the most ardent supporter of our open-door policy concedes that there are limits to the number of immigrants and refugees we can accommodate without imposing serious and unacceptable burdens on our citizens.

The present Cuban refugee crisis and the plight of approximately 30,000 Haitians who have come to our country illegally points up the difficulties of our uncontrollable immigration policy and the problems it creates.

Fidel Castro's efforts to embarrass the Government of the United States as he rids his island kingdom of those discontented with his rule have brought us to a crisis stage. Yet this crisis is not the total problem. The real problem is hidden and has been growing virtually unnoticed for 15 years. It is time we did something about it.

The problem I am referring to is our unchecked immigration, growing at an unprecedented rate. We in this Congress have the distinction of serving our country at the time of the highest immigration in American history. Legal immigration was over 600,000 last year. Estimates of illegal immigration run between several hundred thousand to almost 2 million people yearly. Even in the peak years of immigration at the beginning of this century, immigration never topped 2 million persons per year.

"America is a nation of immigrants." We have all heard this phrase, and the stirring inscription on the Statue of Liberty:

Give me your tired, your poor, your huddled masses yearning to be free.

And America is generous. We accept more refugees and more immigrants than all the other nations in the free world combined. Our response to the plight of the Indochinese refugees is characteristic: By the end of this year, we shall have accepted more than a half-million Indochinese refugees. No other country, save the People's Republic of China, has taken more than 100,000 for permanent settlement. America is, and will continue to be, the most generous country in the world.

But while we intend generosity, we should not allow ourselves to be taken advantage of, to be manipulated. And we cannot allow our laws, designed to provide for this generous refuge in an even-handed and fair manner, to be ignored. We cannot allow any group in our society to tell us that we dare not enforce the laws for them because they live above the demands of the law.

Our laws are necessary in immigration affairs, because the pressure to immigrate to the United States is so great. By accepting hundreds of thousands of immigrants, we have stimulated millions of people in their desperate desire to come to America. There are an estimated 14 million refugees worldwide. By the year 2000, 5 billion people will live in nations with abject poverty. Crushed by debt and energy costs, less developed countries cannot expand their economies fast enough to keep pace with their

growing populations. Droughts and wars continue to displace millions.

Congress has responded to this pressure by increasing immigration ceilings. Courts have responded by restricting enforcement of the laws. Special interest groups have responded by insisting that their constituents receive preferential treatment. The result is that annual legal immigration has almost doubled since 1970. Illegal immigration has skyrocketed, and our ability to control it has withered.

Once an illegal immigrant enters this country, he is safe. Safe to displace Americans from jobs, safe to take housing, safe to use resources and social services, and safe to bring in his family and friends as future illegal immigrants. And safe to demonstrate in front of government buildings, as happened in Chicago.

We all pay for our toleration of such illegality. We pay for the shortage of energy; we pay for the unemployment of displaced U.S. workers. The Secretary of Labor, Ray Marshall, has said that, if only 2 million jobs held by illegal immigrants are freed, unemployment will drop below 4 percent. The Internal Revenue Service estimates that the untaxed income of illegal aliens may be as much as \$6 billion.

We all pay, also, for refugees. A report done by the Department of State at my request showed that our costs for refugee assistance programs will be \$1.7 billion in fiscal year 1980, and more than \$2.1 billion in fiscal year 1981. Those figures were prepared before the administration announced plans to bring in thousands of additional refugees—and they were announced before Fidel Castro implemented plans to disrupt our refugee program. On May 6, 1979, the Washington Post estimated that the cost of this new wave of refugees from Cuba "could rise toward \$1 billion or more." If this happens, the total cost of refugee assistance to the American taxpayers will be over \$3 billion in 1981. Unfortunately, this assistance will not terminate quickly, but will go on for many years.

We have reached the point at which millions of foreign nationals are demanding immigration to the United States as a right. We are, deliberately and by inattention, weakening our ability to say "no" to those who break down our doors by force or by fraud.

We have lost control of immigration to this country. Our immigration policy is no longer set by Congress, or even set in Washington. Our policy is made in Tehran, in Havana, in Port au Prince, in Hanoi. Foreign governments have been quick to see and to use the opportunity presented by our loss of control, our lack of will to enforce our laws. Other nations are not willing to help us enforce our immigration laws when we show ourselves unwilling to exercise control. Mexico guards its southern border strictly and efficiently against illegal immigration, but leaves its northern border open for those who wish to emigrate to the United States. Canada, with a rational and controlled immigration system itself, has become a major waystation for

South American and Caribbean illegal immigration to the United States.

The United States, for all its generosity, cannot accept all the people oppressive regimes want to be rid of. We must understand that the last country to send refugees in massive numbers will not be Vietnam, or Cambodia, or Haiti, or Cuba—that the potential immigrants to the United States are beyond counting. But we are not limitless in our resources, or in our ability to accept refugees and immigrants. We must have an enforced limit on immigration, and we must set it quickly. We must regain control of our immigration. Every passing month has shown that we can wait no longer.

Some may counsel delay or request special exceptions—and they will all have very good cases, very humane purposes. But we must be firm. We must set a limit, generous though it may be, and stick to it.

We can still be flexible and responsive within our immigration ceiling. If an emergency occurs, we can adjust our priorities and allocations within such a ceiling. But we must keep in mind our overall goal, and not become overwhelmed by every individual or group problem.

If we set a limit and stick to it, there will be less incentive for foreign governments to thrust their citizens into danger on the seas, into life-threatening crises. Other countries will be forced to respond to humanitarian calls for help, and not to leave the bulk of resettlement efforts to the United States.

I am today introducing a resolution to accomplish this. This resolution sets a total immigration level for this year of 650,000, twice the statutory level of our immigration preference system. Thus, we can accept refugees and immigrants of all types. But we must have that limit and we must stick to it.

The resolution would direct the President to submit to Congress a yearly total immigration goal for the United States. The goal can change from year to year to reflect our economic and employment needs, and to respond to humanitarian crises. But the goal must be set.

I do not take this step lightly, Mr. President. But the crisis brought to light by events in the Caribbean will not wait. The Federal advisory body on immigration and refugees is a year away from its report. Actions by the members of that commission show that even they are not waiting for the report before initiating major changes in immigration law. I propose this resolution as a modest, remedial step, to do what we can today to bring our immigration crisis back under some semblance of control until we can make the basic, major reforms necessary. I urge my colleagues to join me on this important resolution. ●

SENATE RESOLUTION 431—ORIGINAL RESOLUTION REPORTED TO WAIVE CONGRESSIONAL BUDGET ACT

Mr. LONG, from the Committee on Finance, reported the following original resolution, which was referred to the Committee on the Budget:

SENATE RESOLUTION 431

Resolved, That (a) pursuant to section 303 (c) of the Congressional Budget Act of 1974, section 303(a) of such Act shall not apply with respect to the consideration in the Senate of the bill H.R. 3236 to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes, or with respect to the consideration of the conference report on such bill; and

(b) That waiver of such section 303(a) is necessary in order to enable the Senate to consider this legislation the prompt enactment of which is important to the achievement of the budgetary goals for fiscal year 1981 included in the first concurrent budget resolution for that year as passed by the Senate; and

(c) That the waiver is required because completion of Congressional action on the first budget resolution is expected to be delayed beyond the May 15 date provided for in the Congressional Budget Act of 1974 and because the conference committee on H.R. 3236 found it necessary to modify certain effective dates in the bill because of the passage of time and because of the need to assure that the bill is consistent with the budgetary objectives of the Congress.

SENATE RESOLUTION 432—SUBMISSION OF A RESOLUTION WITH RESPECT TO TAXING OF SOCIAL SECURITY BENEFITS

Mr. NELSON (for himself, Mr. BAUCUS, Mr. BAYH, Mr. BOREN, Mr. BRADLEY, Mr. BUMPERS, Mr. HARRY F. BYRD, JR., Mr. CHAFEE, Mr. CHURCH, Mr. CULVER, Mr. DOLE, Mr. DURENBERGER, Mr. DURKIN, Mr. EAGLETON, Mr. GRAVEL, Mr. HART, Mr. HEINZ, Mr. HUDDLESTON, Mr. KENNEDY, Mr. LONG, Mr. MCGOVERN, Mr. MATSUNAGA, Mr. MELCHER, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. PRESSLER, Mr. PRYOR, Mr. RANDOLPH, Mr. RIBICOFF, Mr. RIEGLE, Mr. ROTH, Mr. SARBANES, Mr. SASSER, Mr. STAFFORD, Mr. TALMADGE, and Mr. WALLOP) submitted the following resolution, which was referred to the Committee on Finance:

S. RES. 432

Whereas social security was established to protect the income of Americans against the serious economic risks that families face upon retirement, disability and death; and

Whereas social security provides a monthly payment to some thirty-five million beneficiaries; and

Whereas the 1979 Advisory Council on Social Security has recommended that half of social security benefits be included in taxable income for Federal income taxes; and

Whereas social security benefits are now exempt from federal taxation; and

Whereas for the people affected, taxing of social security benefits would be tantamount to a cut in benefit payments; and

Whereas 15 to 20 per centum of the elderly—even with social security—are today below the poverty level and all Americans are suffering the effects of inflation; and

Whereas estimates based on 1978 data indicate that taxing one-half of social security benefits would affect 10.6 million tax filing units of the 24.2 million individuals who received social security cash benefits; and

Whereas the estimated impact of this taxation of social security benefits would have increased the average tax liability of those tax units affected in 1968 by \$350; and

Whereas the total estimated increase in federal tax collections in 1978 by the taxation of one-half of social security benefits would be \$3.7 billion; and

Whereas the prospect of possible cuts has alarmed many older Americans and undermined the confidence of Americans in the integrity of the social security program; Now, therefore, be it

Resolved, That, it is the sense of the Senate that the Social Security Advisory Council's recommendation that one-half of social security benefits should be subject to taxation would adversely affect social security recipients and undermine the confidence of American workers in the social security programs, that social security benefits are and should remain exempt from federal taxation, and that the 96th Congress will not enact legislation to implement the Advisory Council's recommendation.

SENATE RESOLUTION 433—ORIGINAL RESOLUTION REPORTED TO WAIVE CONGRESSIONAL BUDGET ACT

Mr. CANNON, from the Committee on Commerce, Science, and Transportation, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 433

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 6554. Such waiver is necessary because H.R. 6554 authorizes the enactment of new budget authority which would first become available in fiscal year 1980, and such bill was not reported on or before May 15, 1979, are required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

Section 4 of H.R. 6554 would amend the Maritime Appropriation Authorization Act for fiscal year 1980 (Public Law 96-112; 93 Stat. 847) to provide the necessary authorization for a fiscal year 1980 supplemental appropriation for the Department of Commerce to cover certain unforeseen expenses in the operating-differential subsidy program. Specifically, section 4 of H.R. 6554 would raise the authorization for this program for fiscal year 1980 from \$256,208,000 to \$300,515,000.

Operating-differential subsidy is paid to United States companies to enable them to operate U.S.-flag ships competitively in the United States foreign trade by generally offsetting the excess of United States ship operating costs over comparable foreign ship operating costs. Direct subsidies were first provided to United States operators under the Merchant Marine Act, 1936. The Merchant Marine Act of 1970, expanded the coverage of operating-differential subsidies to include bulk-carrier ships.

Due to the complexity of calculations under the operating subsidy formulas and the dynamic nature of several cost factors that enter into those calculations, vessels that participate in this program during any fiscal year are reimbursed at tentative rates for such fiscal year. Often final amounts paid to such participating vessels are not determined and paid for at least 18 months after the end of such fiscal year. Thus, even though the latest available data is used to prepare budget estimates for this program, the timing of the budget process requires that this data be used to forecast economic conditions that will prevail 1, 2, and 3 years from the date the budget estimates are prepared. The supplemental authorization to reflect the decline in the value of the dollar, changes in United States and foreign cost factors in certain maritime trades, and unforeseen developments in the United States-Soviet grain trade that occurred subsequent to the preparation of the fiscal year 1980 budget estimates.

AMENDMENTS SUBMITTED FOR PRINTING

SOFT DRINK INTERBRAND COMPETITION ACT—S. 598

AMENDMENTS NOS. 1762 THROUGH 1767

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted five amendments intended to be proposed by him to S. 598, a bill to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws.

AMENDMENT NO. 1768

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to amendment No. 1760 intended to be proposed to S. 598, supra.

AMENDMENT NO. 1769

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to amendment No. 1761 intended to be proposed to S. 598, supra.

AMENDMENT NO. 1770

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to amendment No. 1762 intended to be proposed to S. 598, supra.

AMENDMENT NO. 1771

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to amendment No. 1763 intended to be proposed to S. 598, supra.

AMENDMENT NO. 1772

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to amendment No. 1764 intended to be proposed to S. 598, supra.

AMENDMENT NO. 1773

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to amendment No. 1765 intended to be proposed to S. 598, supra.

NOTICES OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will conduct a hearing on "Crime and Its Impact on Small Business."

The hearing will begin at 10 a.m., on Thursday, May 29, 1980, in room 424 of the Russell Senate Office Building.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will conduct a hearing on the Small Business Administration's veterans' assistance program.

The hearing will begin at 10 a.m., on Wednesday, June 4, 1980, in room 424 of the Russell Senate Office Building.●

ADDITIONAL STATEMENTS

THE AMERICAN INTELLIGENCE COMMUNITY

● Mr. GOLDWATER. Mr. President, today I would like to speak about a very important aspect of our national security, namely, the American intelligence community. In these days of worldwide turmoil and widespread anti-American sentiment, it is absolutely mandatory that we have in the field an efficient and functioning system for collecting and assessing the events that bear directly on our own strategic interests.

Now, if anyone is confused on this score it does not surprise me. We have been through an extended period wherein the intelligence agencies of our Government have been pictured more as enemies of the American people than they have as benefactors and necessary adjuncts to our national security. It is almost impossible these days to pick up a newspaper printed in our major cities without reading long diatribes against the intelligence gathering system of the United States and outlining alleged abuses they supposedly committed both here and overseas. For example, just 1 day's collection of such stories show the Los Angeles Times with a piece entitled "The Danger Can't Be Ignored," the St. Louis Post-Dispatch has an article entitled "The Issue of Force," the Washington Post headlines "Congress Closes On the CIA," and the New York Times advises its readers under a headline that reads "Retreat From Intelligence."

Now, it is important to keep in mind that all of these newspapers are editorially associated with the left wing branch of the political spectrum and it is a well known fact that the liberal press has never shown any marked sympathy for the collection and use of intelligence information, especially if such activity required the use of secret or clandestine methods. There seems to be a built-in abhorrence on the part of these publications for anything of a confidential nature, whether it be in the interests of protecting the American people or any other Government activity.

Now, as some of you know I have served on the Church committee to investigate intelligence activity and the present Senate Oversight Committee on Intelligence. In my humble opinion the Church committee went out of its way to do as much as it possibly could to destroy the CIA and all other intelligence agencies. Never did that committee keep in mind nor did the newspapers that reported on its activities keep in mind, the fact that everything they criticized about intelligence activity was done by those agencies on direct orders from the Presidents of the United States. Everything that the media regards as reprehensive in intelligence work has occurred in the past two decades and all of it was approved by whoever happened to be occupying the White House at the time. The things that were done were done because the men elected to the highest office in the land decided they were necessary in the interests of the security of the American people.

Throughout this entire period of criticizing, berating and downgrading our intelligence agencies, the question of ultimate responsibility has been conveniently played down. The effect of all the public breastbeating has been to reduce the ability of our Government to gather needed intelligence and assess it properly. If you were able to look inside these agencies today you would find that through the efforts of the press and the Church committee, the sound, experienced older people in the intelligence business, have been eliminated and the long, slow process of training younger people is only now getting underway. The cost to this Nation in solid gathering and assessment of worldwide intelligence will be impossible to calculate.

At the present time, there is a great deal of criticism of Congress because we have been unable to come to an agreement on a 150-page intelligence charter that every single member of the Intelligence Committee knew from the beginning would not work. This whole business of a charter is long and involved and extremely difficult to understand. And, although I greatly admire the efforts of Senator HUDDLESTON, who worked for many months on this charter, I cannot see in it, what is so desperately needed to quickly give our intelligence community some degree of independence and protection so that it can move ahead immediately on the job or protecting American interests. In my opinion, we would be well advised to adopt quickly the succinct and easily understood bill introduced by Senator MOYNIHAN and the committee because they are brief and get to the guts of what I have been talking about. It is a step in the right direction and needs to be taken immediately. It limits the number of Members of Congress who would be able to obtain secret intelligence briefings and provides much needed protection for our intelligence agents in the field.

Frankly, I have always felt it was ridiculous and self-defeating to authorize multiple committees of Congress to have access to planned intelligence operations. Frankly, if I had the power I would do away with all intelligence oversight committees, because I feel intelligence is of such major importance to the United States that it should be operated only by people who know how to operate it and who understand it. There are very few Members of Congress with the kind of ability this requires. But, we do have a law and we have one committee in each House of Congress that is reasonably capable of performing a measure of oversight functions, so I am going to go along with the idea that we permit these two committees to examine intelligence activities because I believe this is the best we can do at the present time.

In conclusion, let me say that events in Iran, Afghanistan, Cuba and other trouble spots throughout the world are beginning to convince the American people and many Members of Congress of the absolute and vital need for a healthy intelligence community. I believe that even some elements of the liberal press are beginning to understand that you

cannot go on forever heaping abuse on agencies and individuals whose job it is to protect this country without eventually doing grave damage to all of the American people.●

NATIONAL EMERGENCIES ACT

● Mr. CHURCH. Mr. President, today marks the end of 6 months since the President's declaration, on November 14, 1979, of a national emergency with respect to the situation in Iran. I bring this to the attention of my colleagues because of the responsibility imposed on the Congress by section 202(b) of the National Emergencies Act. That section requires that—

Not later than six months after a national emergency is declared . . . each House of Congress shall meet to consider a vote on a concurrent resolution to determine whether that emergency shall be terminated.

The purpose of this provision, as the Committee on Foreign Relations saw it, was to require the Congress on a periodic basis to consider the continued existence of the emergency in a manner appropriate to the degree of interest and controversy. Pursuant to this provision, the full committee discussed the matter at an open meeting on Thursday, May 8, reached its conclusion that a resolution to terminate was not warranted at this time, and agreed to send a letter to the President to inform him of the committee's action.

I believe, Mr. President, that it is important to make the record clear that the Senate has taken seriously its responsibility under this section of the act and has complied with the mandate imposed upon it. I ask that the attached committee correspondence with the President of the United States and with the majority and minority leaders of the Senate be printed in the RECORD.

Two letters follow. A third letter, identical to that sent to Senator BYRD, was sent to Senator BAKER, but is not reprinted.

The letters follow:

COMMITTEE ON FOREIGN RELATIONS.

Washington, D.C., May 9, 1980.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: Last November 14, when you declared a national emergency to deal with the situation in Iran, it was the hope of all Americans that the crisis would rapidly and successfully come to an end. It remains our hope that your efforts will soon be successful in ending this unlawful detention of Americans, and the emergency which has ensued therefrom.

As you are aware, in cases where a national emergency continues for this length of time, Congress is mandated by law to consider whether or not the emergency should be terminated. Section 202(b) of the National Emergencies Act states that, "not later than six months after a national emergency is declared . . . each House of Congress shall meet to consider a vote on a concurrent resolution to determine whether that emergency shall be terminated." No Senator has introduced such a resolution.

The Committee on Foreign Relations, acting in satisfaction of the duty imposed by section 202(b) of this Act, at a May 8, 1980 meeting considered whether or not the introduction of a concurrent resolution was warranted at this time. After due consider-

ation of the question, the Committee has determined that, because the causes for declaring a national emergency with respect to the situation in Iran continue to this day, no reason exists for the introduction and the Senate debate of a resolution to terminate the emergency.

With best regards,
Sincerely,

JACOB K. JAVITS,
Ranking Minority Member.
FRANK CHURCH,
Chairman.

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., May 9, 1980.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: We write to inform you of recent action taken by the Committee on Foreign Relations pursuant to the duty imposed by section 202(b) of the National Emergencies Act. Section 202(b) requires that "not later than six months after a national emergency is declared . . . each House of Congress shall meet to consider a vote on a concurrent resolution to determine whether that emergency shall be terminated." To comply with this section the Committee considered the question of whether or not the introduction of a resolution to terminate the national emergency, declared on November 14, 1979 with respect to the situation in Iran, was called for by current circumstances, and concluded unanimously that it was not. We agreed to send the attached letter to the President informing him of this action.

Because no Senator to date has introduced a resolution to terminate the emergency, the Committee was faced with the question of whether or not section 202(b) required the Senate, or more particularly the Committee on Foreign Relations, to take some affirmative step on the question of termination of the emergency, in the absence of the introduction of such a resolution.

It was our belief that, if the Senate were to do nothing in the face of this provision, no legal consequence would have resulted. In other words, a failure of the Senate to "meet"—as provided for in the provision—does not terminate the national emergency, does not serve to limit the President's powers in the crisis, and does not interfere with any litigation concerning Iranian assets now in process—according to the consensus of Senate and Executive branch lawyers.

Instead, the issue, as the Committee saw it, was one of preserving the principle that Congress has the right, and the duty, to review the use of executive authority in times of national emergency. Because this is the first national emergency declared pursuant to this Act, how well the Senate complied with the intent, if not the letter, of this provision could be cited in the future as precedent.

Considering all these matters, the Committee interpreted section 202(b) to require the Congress to consider, in a manner appropriate to the degree of interest and controversy, whether or not the national emergency should be terminated. For this reason, the Committee discussed the matter at a meeting on Thursday, May 8, reached its conclusion that a resolution to terminate was not warranted at this time, and agreed to send the attached letter to the President to inform him of the Committee's action. It was our belief that this procedure upholds the intent of the statute that declarations of national emergencies be reviewed periodically by the Congress, establishes the precedent that the Senate takes seriously its responsibilities under the National Emergencies Act, and avoids the dangers of misinterpretation that could result from a Senate debate on ter-

minating the national emergency undertaken for the sole purpose of complying with the form of the statute.

Sincerely,

JACOB K. JAVITS,
Ranking Minority Member.
FRANK CHURCH,
Chairman. ●

ELIMINATE AND PREVENT FEDERAL REGIONALIZATION OF LOCAL, STATE, AND FEDERAL GOVERNMENTS

● Mr. GOLDWATER. Mr. President, a lot of concern is being felt these days about the division of Federal service throughout the country into regional systems. The fear of local and State officials is that this tendency will lead to centralization of power and authority which rightfully and constitutionally belong to local political subdivisions. Recently the House of Representatives of the Arizona State Legislature took note of this problem in adopting a concurrent memorial urging the Congress to eliminate and prevent Federal regionalization. I ask that the concurrent memorial be printed at this point in the RECORD.

The concurrent memorial follows:

HOUSE CONCURRENT MEMORIAL 2003

Whereas, the United States was divided into ten federal service regions in 1972 by presidential executive order 11647 and the states, encouraged by the promise of federal dollars or threat of the withdrawal of federal dollars, have further divided into planning and service districts; and

Whereas, the announced goal of regionalization of local, state and federal governments under federal regionalism is centralization of power and authority, which rightfully and constitutionally belongs to these several state governments, transference of custody of the public purse to appointed officials and usurpation of the rights and freedoms of citizens; and

Whereas, many authorities on constitutional law have declared that the federal regional concept is a direct violation of Article IV, Sections 3 and 4 and of the Tenth Amendment of the United States Constitution; and

Whereas, regional government, under whatever name, is a real and present danger to the freedom of person and property guaranteed to the people by the United States Constitution and to the sovereignty and proper interest of the people of this state.

Wherefore your memorialist, the House of Representatives of the State of Arizona, prays:

1. That the Congress of the United States take action to eliminate and prevent federal regionalism of local, state and federal governments.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation. ●

STRATEGIC PETROLEUM RESERVE

● Mr. DOLE. Mr. President, last week during consideration of the budget resolution, myself and a number of my colleagues attempted to restore the needed funding to fill our strategic petroleum reserve. Unfortunately our attempts were unsuccessful and subsequently a vital link in our overall national security chain is still missing. The concern of this

Senator and many others in this Chamber as to the administration's lack of commitment to our reserve program will not be alleviated by empty promises and rhetoric by Secretary Duncan and his assistants at the Department of Energy.

The retreat by the Carter administration from a strong commitment to our Nation's security interests because of pressure from foreign nations is unconscionable. The strategic petroleum reserve must be a vital component in any strategy aimed at reducing U.S. oil vulnerability. Without a viable reserve our entire economy and military strength could be rendered virtually impotent in time of a severe energy supply interruption. It is my belief that there is no justification for the anti-SPRO policy this administration has adopted and I want my colleagues to know that I will continue the fight to restore our strategic petroleum reserve to its proper place on our list of national priorities.

Mr. President, today's Wall Street Journal carried a very informative and enlightening exposé as to why our reserve program was halted, the efforts being made to make good our commitment to a strong reserve, and the importance a strategic petroleum reserve program has as tensions in the area of the Persian Gulf continue to mount. I commend the article, "Kowtowing on the Oil Reserve," by Walter S. Mossberg, to my colleagues and hope that this issue of critical importance pointed out by Mr. Mossberg does not escape their attention. I ask that the Wall Street Journal article be printed in the RECORD.

The article follows:

KOWTOWING ON THE OIL RESERVE

(By Walter S. Mossberg)

WASHINGTON.—For over a year now, the Carter administration, bowing to pressure from Saudi Arabia, Europe and Japan, has refrained from adding any oil to the U.S. strategic petroleum reserve.

As a result, the strategic reserve, the government's only readily usable store of the fuel needed to run the U.S. economy and supply American military forces, holds barely enough oil to keep the country in business for two weeks in the event of a halt in oil imports.

What's more, the White House and congressional budget committees have dropped from the new budget nearly all funds earmarked to buy oil for the reserve, should the U.S. want to start filling it again. The budget doesn't envision new purchases for the stockpile until mid-1981.

These policies have been pursued at the very time when world events, notably the kidnapping of Americans in Iran and the Soviet invasion of Afghanistan, are drawing the U.S. more deeply than ever into conflicts that threaten to disrupt the flow of oil from the Persian Gulf.

The President's willingness to be cowed by self-seeking foreign governments and to forgo the strategic stockpiling of oil could dangerously limit America's freedom of action, both diplomatic and military. It could turn out to be one of Mr. Carter's more serious foreign-policy mistakes.

REVIVING THE RESERVE

Recently, however, pressure has been rising in Congress, and in Mr. Carter's own Energy Department, to resume the filling of the reserve, regardless of the opposition abroad. A bipartisan group of conservative and liberal Senators, including Democrats Henry

Jackson of Washington and Bill Bradley of New Jersey and Republicans Robert Dole of Kansas and Mark Hatfield, of Oregon, is pressing various bills to revive the reserve. Other efforts are under way in the House, with the backing of that chamber's principal energy legislator, John Dingell, a Michigan Democrat.

Some of these measures would provide the necessary funds for further stockpiling. Others would order the resumption of oil purchases for the reserve. Still others would require that oil produced by federally owned oil fields at Elk Hills, Calif., be diverted to the reserve instead of being sold to oil companies.

Sen. Bradley charges that "we lack the political will" to fill the reserve, and Sen. Dole asks "If we kowtow to Saudi pressure on this, how can we realistically be expected to defend our own interests elsewhere?"

When President Carter took office in 1977, he set a goal of placing 250 million barrels in the reserve by the end of 1978, and one billion barrels by 1985. But his new Energy Department bungled the job, amassing just 70 million barrels by the end of 1978.

Early last year, when the Iranian revolution suddenly slashed world oil production, new purchases for the reserve were halted. Oil trickling in under prior contracts pushed the reserve's size to 92 million barrels, where it stands today.

By late last year, a small world oil surplus was developing, but the administration had erected added barriers to new purchases for the reserve. Last summer, it agreed at the Tokyo economic summit to consult with other industrial nations before resuming the stockpiling in order to avoid undue pressure on world supplies and prices.

In the fall, U.S. government sources revealed to this newspaper and others that Saudi Arabia was privately threatening to cut its oil production, pushing world prices higher, if purchases for the reserve were resumed.

The Saudi threat was prompting a U.S. agreement to "consult" on the issue. One high administration energy official says consultation with the Saudis has been needed because, if new U.S. stockpiling leads to a Saudi production cut, "you've kind of killed the golden goose. You've got to look at the expected consequences of your action."

But former Energy Secretary James Schlesinger, who left office last August, says ruefully "It was a mistake to have allowed the issue to become whether we could fill the reserve." He now wishes, he says, that in his final months of office a token flow of oil into the reserve had been maintained, just to preserve the stockpiling principle.

"The United States established the reserve for the national security," Mr. Schlesinger declares. "We do not provide a lien on the national security to any nation." The Saudi threat, he claims, was mainly a restatement of "ritualistic" opposition, and could safely have been ignored. By asking Saudi permission, he asserts, Saudi opposition was guaranteed.

Mr. Schlesinger's successor as Energy Secretary, Charles Duncan, last broached the issue with the Saudis in March, and was predictably rebuffed. He and his advisers have also floated a plan by which the Saudis would hold to high production rates while we resume stockpiling, in return for guarantees that the strategic reserve wouldn't be used against them. But that idea has been received coolly, both in Saudi Arabia and in the White House.

Mr. Duncan is now expected to urge President Carter to resume filling the reserve this summer, with oil either from Elk Hills or foreign sources. To help him make his case, he has hired Abram Chayes, an international law expert from Harvard, as an adviser.

In a recent interview, Mr. Chayes said "Obviously, it's desirable to encourage the Saudis to maintain high production, and to withhold any objection to, or even approve, our filling of the reserve. But those aren't necessarily preconditions to going ahead."

The debate over the issue is expected to be joined in late June or early July, when representatives of the Energy, Treasury and State Departments and the White House staff make a recommendation to the President.

That time period has been carefully selected to come after the scheduled early June meeting of OPEC and the late June summit meeting of Western leaders. The time coincides roughly with the date when new contracts would normally be let for commercial sale of oil from the Elk Hills Naval Oil Reserve.

"That will be a reasonable time to look at the issue anew," says a top administration official. "All of this stuff has got to be thought through again. It's entirely possible that the policy may change, but it's too early to tell."

Opposition to resumption of stockpiling is expected to come from the State Department, which may be fearful of upsetting the Saudis. The Saudi government insists its oil reserves can be considered as the West's strategic stockpile, and so the U.S. storage program isn't needed. Saudi officials complain that, since purchases for the U.S. stockpile add to demand and to world oil price pressures, they undercut Saudi efforts to moderate and unify OPEC's oil pricing. What's more, the Saudis say, they'd have little interest in maintaining high rates of production just so the U.S. could stockpile more oil.

The State Department may also argue that it's bad diplomacy to resume purchases for the reserve and thus add to world demand and prices, just when we're urging allied nations to boycott Iranian oil, a move that forces them to seek other supplies.

Some Treasury and Budget officials fear that spending \$1.5 billion or \$2 billion a year to buy oil for the reserve could wreck the balanced budget currently being pasted together in Congress. And, if oil from the Elk Hills field is placed in reserve instead of sold to oil companies, the budget will be hurt further by a \$1 billion revenue loss.

The trouble with these arguments isn't just that they pale before the national security need for an adequate oil stockpile. The trouble is that most are simply disingenuous.

Saudi Arabia for instance, despite its high-minded talk about moderation and order in oil pricing, really opposes the strategic reserve for one, obvious reason: A large U.S. oil stockpile would blunt or even negate the feudal kingdom's only means of having a serious impact in world affairs—the threat to withhold its oil.

The Saudis have been notably unsuccessful lately at selling "moderation" in OPEC; even without U.S. stockpiling last year, world oil prices doubled. What's more, their current high production rate isn't being maintained solely to aid the West; it's also intended to shore up Saudi Arabia's fading power within OPEC. With or without American stockpiling, most U.S. oil analysts believe, internal political pressures will force the kingdom's rulers to cut daily oil output sooner or later.

Our European and Japanese allies themselves now possess bulging stockpiles of oil and oil products. Their inventories were amassed last year in a panicky buying spree that helped drive prices sky-high, while the U.S. was holding back.

As for the budget-balancing problems posed by a renewal of reserve oil purchases, Mr. Carter could quickly propose that the

stockpiling be financed from receipts from his oil import fee, if it survives court challenges; the White House says it isn't now counting on the fee as a means of balancing the budget.

IMPACT ON DEMAND AND PRICES

By waiting so long to resume oil stockpiling, President Carter has, ironically, missed the best opportunity to ease the government back into buying oil with the minimum impact on demand and prices. World oil markets appear to be tightening with spot-market prices rising after several months in which supplies outran demand. Foreign governments are bound to argue that this is the worst time to start stockpiling again.

But the President's task this summer will be to brush aside all these arguments about the oil market and the budget. The main issue—maybe the only issue—before him, should be the nation's need for a secure emergency store of oil as the world heads into a period of struggle over the control of oil production, a struggle few now doubt will be dangerous and tough.

It will be interesting to see whether Jimmy Carter can summon up the purposefulness to order that the strategic reserve be filled again, over the opposition of contemptuous and jealous men in Arabia, Europe and Japan. ●

NUCLEAR INDUSTRY WINS AWARD

● Mr. GRAVEL. Mr. President, I was pleased to see recently that the nuclear industry has won an award which I think it richly deserves. It is the 1979 Doublespeak Award, issued by the National Council of Teachers of English. As one who has been trying to debunk the pronouncements of nuclear advocates for the past decade, I think this group of language experts has performed an important public service, and I commend them for it.

In presenting the award, the National Council cited several examples of what Ralph Nader calls "nuclearspeak." I would like to note a few more:

First, "Spent fuel" means radioactive waste;

Second, "Health effects" means deaths;

Third, "Thermal enrichment" means thermal pollution;

Fourth, "Breach of containment" means leak of radioactive poison;

Fifth, "Benefit versus risk" means we do as we please, while you (involuntarily) suffer the risks; and

Sixth, "Let us put this in perspective" (when confronted with a difficult nuclear problem) means let us divert attention from the matter at hand to discuss something else.

It is encouraging to see polls which show that Americans are, increasingly, able to see through the doublespeak. Two-thirds now regularly say, when asked, that they do not want a nuclear plant in their neighborhood.

Mr. President, I hope that my colleagues will remember this award when they hear claims about "safe, necessary nuclear power" and not allow themselves to become victims of doublespeak. I request that the November 22, 1979, news release from the National Council, which is located at 1111 Kenyon Road, Urbana, Ill. 61801, announcing the award be printed in the RECORD.

The news release follows:

POWER INDUSTRY'S JARGON ABOUT THREE MILE ISLAND ACCIDENT GETS NCTE'S DOUBLESPEAK AWARD FOR 1979

SAN FRANCISCO, November 22.—The nuclear power industry was declared the winner of the 1979 Doublespeak Award this morning at the annual meeting of the National Council of Teachers of English at the San Francisco Hilton.

"Unfortunately, this past year has been a good year for doublespeak," said William Lutz, chairman of the NCTE Committee on Public Doublespeak. "The Committee received more nominations for its Doublespeak Award this year than any other year. . . . The selection process was arduous." In the end, the nuclear power industry outdistanced all individual contenders, Lutz said, by inventing "a whole lexicon of jargon and euphemisms used before, during, and after the Three Mile Island accident and serving to downplay the dangers of nuclear accidents. An explosion is called 'energetic disassembly' and a fire, 'rapid oxidation.' A reactor accident is an 'event,' an 'incident,' an 'abnormal evolution,' a 'normal aberration' or a 'plant transient.'" All these terms, Lutz pointed out, were used by officials at Three Mile Island. "Plutonium contamination," the Doublespeak Committee chairman added, is "infiltration," or 'plutonium has taken up residence.'"

Lutz, a professor at Rutgers University, also scored the nuclear power industry's public relations campaign, launched against the film *The China Syndrome* before the Three Mile Island crisis. "Articles appeared in popular periodicals giving assurances of the astronomical odds against a major accident occurring at a nuclear power plant. Such an article defending nuclear power and attacking *The China Syndrome* appeared in the March 12, 1979 issue of *Fortune* magazine and was entitled 'Exorcising the Nightmare of Reactor Meltdowns.' Among those who wrote along the same lines as the nuclear power industry was columnist George F. Will, who in the April 2, 1979 issue of *Newsweek*, attacked the movie and stated, among other claims, that 'there is more cancer risk in sitting next to a smoker than next to a nuclear plant.'

"A hallmark of most of the articles defending nuclear power," Lutz said, "was the 1972 Rasmussen Report, whose methodology and statistical data have been questioned and partially discredited. Among other claims made in the Rasmussen Report is the estimate that 'an accident resulting in the early death by cancer of ten or more people could be expected only once in three million reactor-years.' After the Three Mile Island experience, the nuclear power industry might want to review some of the claims made in the Rasmussen Report and some of its own claims of safety and reliability."

The Committee on Public Doublespeak, made up of teachers and professors of English from throughout the U.S., gave second place for 1979 to Kentucky State Representative Dwight Wells, who on the statehouse floor, told news media reporters to tell Kentuckians only what they want to hear. The magazine *Mother Jones* quoted Representative Wells as saying, "When you start to write, read, or act, you can ask yourself, 'Is what I'm doing . . . uniting the people of Kentucky and helping them to stand and be great?' You are to the people of Kentucky what a parent is to a child. When the truth is harmful and detrimental to the people of Kentucky, you should not only not tell them the truth, but you have a duty to see they do not know the truth."

Colorado State Representative A.J. Spano came in third with a set of euphemisms meant to downplay Denver's rating as "the city with the second-dirtiest air in the

nation." According to the *Denver Post*, Spano "introduced, and the House Transportation Committee passed last May, a bill to change the nomenclature of the state's air-quality scale. The level of pollutants called 'hazardous' by the federal government would now be called 'poor,' 'dangerous' would become 'acceptable,' 'very unhealthy' would become 'fair,' 'unhealthy' would become 'good,' and 'moderate' would become 'very good.'"

This year, Lutz announced, the Committee on Public Doublespeak voted to make a special award for the most conspicuous example of doublespeak from a foreign source. The committee cited General Joao Baptista Figueiredo, who on his election as Brazil's next president, told reporters, "I intend to open this country up to democracy, and anyone who is against that, I will jail, I will crush." Figueiredo's statement was quoted in the *Washington Post*.

In the running for this year's award for the most flagrant example of public doublespeak, Lutz said, were presidential assistants, drug companies, state legislators, a United States Senator, a U.S. Congressman, and various corporations.

"There was strong support for Hamilton Jordan's comment. 'I was thinking in contemporaneous terms.' According to Jack Anderson, Jordan made this statement when it was pointed out to him that his denial that the FBI had questioned him about his alleged involvement in the Robert Vesco case was false. His statement was in the grand tradition of Ron ('That statement is now inoperative.') Ziegler, a previous winner of the Doublespeak Award.

"Hamilton Jordan did not get the award. Nor did Congressman Richard Kelly (R-Fla.), who said: 'I think the free-enterprise system is absolutely too important to be left to the voluntary action of the marketplace . . .'"

THE PROBLEM OF FEDERAL COERCION

● Mr. GOLDWATER. Mr. President, the whole problem of Federal coercion is one that is beginning to annoy many States. It is becoming increasingly the practice of the Federal Government to require States to enact laws to implement Federal policy by threatening to withhold Federal funds. This coercive activity amounts to indirectly imposing the will of the Federal Government upon States which should be free to pursue their own policies. This coercive power of the purse is being used to extend the authority of the Federal Government far beyond the powers delegated by the Constitution.

The Arizona Legislature recently adopted a concurrent resolution asking the Congress to convene a convention to propose an amendment to the Constitution which would prohibit the kind of coercive action I have just mentioned. I ask that the Arizona resolution be printed in the *RECORD* at this time.

The concurrent resolution follows:

HOUSE CONCURRENT RESOLUTION 2001

Whereas, the powers delegated to the federal government by the United States Constitution are limited, and those powers not delegated to the federal government are reserved to the states; and

Whereas, it is becoming increasingly the practice of the federal government to require states to enact state laws to implement federal policies by threatening to withhold or withdraw federal funds for failure to do so; and

Whereas, the federal government has imposed upon the states many programs and obligations which require funding in excess

of state means, thereby making the states subservient to and dependent upon the federal government for financial assistance; and

Whereas, through the coercive force of withdrawing or withholding federal funds, or the threat of withdrawing or withholding federal funds, the federal government is indirectly imposing its will upon the states and requiring implementation of federal policies which neither Congress nor the President nor any administrative agency is empowered to impose or implement directly; and

Whereas, this coercive power of the purse is being used to extend the power of the federal government over the states far beyond the powers delegated to the federal government by the United States Constitution; and

Whereas, the power of the federal government should be exercised directly by the enactment, implementation and enforcement of federal laws governing only those areas in which the federal government is empowered to act by the United States Constitution, and the federal government should be prohibited from usurping the authority of the states and imposing its will indirectly in those areas in which it has no power to act directly; and

Whereas, the federal government has imposed upon the states many programs and obligations which require state administration and such programs or other programs may lose federal financing if certain conditions attached to the program are not met.

Therefore be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. Pursuant to Article V of the Constitution of the United States, the Legislature of the State of Arizona petitions the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States to prohibit the Congress, the President, and any agent or agency of the federal government, from withholding or withdrawing, or threatening to withhold or withdraw, any federal funds from any state as a means of requiring a state to implement federal policies which the Congress, the President or the agent or agency of the federal government has no power, express or implied, under the Constitution of the United States, to impose upon the States or implement its own action, and to limit permissible conditions of federal financing by the Congress, or the President, or any agent or agency of the federal government designed to obtain state administration of federal programs at the risk of losing federal funds for other programs if any or all conditions of the program are not met.

2. That the Secretary of State of the State of Arizona is directed to send a duly certified copy of this Resolution to the President of the United States Senate, the Speaker of the United States House of Representatives and to each Member of Congress from the State of Arizona. ●

LAXALT PROBES THE IRS

● Mr. LAXALT. Mr. President, ever since I was Governor of Nevada I have been deeply concerned about the activities of the Internal Revenue Service. That agency, in its constant pursuit of every tax dollar, has demonstrated a callous disregard of the rights and dignity of the American taxpayer. It has harassed and threatened hapless citizens—often beyond endurance. I have personally known innocent taxpayers who were financially and physically reduced to ruin by the zealots at the IRS.

Several times over the past few years, I have written the agency to express my concerns. Yet, far from improving their procedures, over the years the agency has gotten worse. More taxpayers have written in this year than ever before detailing even worse abuses. Although nationally the number of IRS audits are decreasing, Nevada remains singled out for special enforcement. The mentality in the agency can be characterized as "if you have anything to do with gambling, you are illegal." The entire State is suffering because of our cash economy.

For that reason, Senator SCHMITT and I recently held a special hearing to examine the activities of the IRS. I questioned Commissioner Kurtz on a number of subjects and conveyed to him the frustration and anger toward the IRS we feel in Nevada. I plan to use the hearings as a benchmark to evaluate future IRS performance. I expect improvement and will accept nothing less.

Mr. President, at the start of those hearings I submitted a statement which outlined my concerns with the IRS. Given the seriousness of the problems mentioned, I hope that all my colleagues will take the time to consider my views. ●

ANOTHER SIDE TO HEALTH POLICY

● Mr. RIBICOFF. Mr. President, most of the day-to-day work of the Members of Congress covers broad policy issues, large-scale decisions on the way to spend Federal funds, and judgments about the value of one program over another. Sometimes we get a glimpse of the way these broader issues translate into the day-to-day lives of other individuals. In the case of health legislation and policy, these glimpses can be especially poignant. Recently a fine article by Natalie Davis Spingarn appeared in the Washington Post. Mrs. Spingarn, in her work and in her personal life, has seen both sides of the story of health policy, and her article does an excellent job of bringing these often opposing forces to life. It is vital that we on Capitol Hill not lose sight of the connection between legislation and its effect on individuals.

Mr. President, I ask that this article "A Cancer Patient's Never-Never Land" be printed in the RECORD.

The article follows:

[From the Washington Post, Apr. 27, 1980]

A CANCER PATIENT'S NEVER-NEVER LAND

(By Natalie Davis Spingarn)

In my work, I write, usually about health policy matters. I also serve as a hospital commissioner. In my life, I am a patient, a role which takes time—too much time. In all these capacities, I read a huge amount of boilerplate about health care.

Sometimes I get confused. I do not know which is the never-never land, the written word or the (I think) reality. The other night I struggled to stay awake while browsing through a document with the straight-faced title "Environmental Assessment of the Hospital Industry, 1979," published by the American Hospital Association. I read that changes in the age composition of the population—more older patients with chronic illness—would challenge the hospital industry to "expand its focus on 'caring' to supplement hospitals' traditional 'curing' func-

tion. This will involve greater attention to the emotional and psychological needs of patients and their families, especially chronically and terminally ill patients."

Caring vs. Curing. This terminology studs the literature especially the nursing literature. But are they really different?

I am lying still in my Washington hospital bed, minding my own business. Chronic, yes. Terminal, not yet. My room is par for the course—drab, colorless, a large TV set like an idol on the wall. A nurse comes in to check on me. She is young, Indian, no credit to Mrs. Gandhi.

"What's the matter with you?" she wants to know.

I tell her I have just had an episode of "true vertigo." But my basic ailment is metastatic breast cancer (which she could have seen on my chart.)

"Why?" she persists. She asks if I had been to the doctor for checkups before I fell ill. I reply in a strained voice that I had been checked every three months over a decade's time, but had gotten cancer anyway (exactly like my grandmother).

Not only did I see the doctor, I stopped smoking, did exercises, in other ways lived healthy.

Nothing stops her. My disease seems to her my fault. She makes no move toward me, even to inquire if I need anything, and observes that I should have talked to the doctor about avoiding its spread.

My head begins to ache, my patience to run out. I advise her that indeed I had talked to many specialists about avoiding spread. When she starts muttering about "fourth stages," I tell her firmly I would rather not discuss the matter any more. She leaves; I feel lousy.

I am in another hospital—Memorial Sloan-Kettering in New York City. Here extra effort is put into making things look, feel and taste cheerful—bright paintings, even tapestries grace lobbies and corridors painted orange, yellow, blue. Each bed has its own telephone and tiny TV set on an adjustable goose-neck arm; volunteers bring the new patient a vase containing a single pink carnation. The nutritionist works with my fussy, elderly roommate for 15 minutes, trying to find her a diet that is at once tasty, bland and Kosher. Later I am wheeled downstairs on a stretcher, Demerol-bleary. I wait to be admitted to the myelogram room. Someone gives me a lemon-stick to suck; I start to cry.

Two technicians rally round, jolly me, accept my pain. "This is the place to cry," one soothes, "not in your room where you have to keep a stiff upper lip for visitors." Then, skillfully: "Care to tell us what's the matter?"

I search my brain for an adequate answer. "All these awful things, and nothing seems to work."

"Nothing seems to work, or nothing seems to help?" she asks.

I perk up; after all, I have been helped. I feel better.

Back to the boilerplate. I read that the direction of national health policy is "toward reducing the capacity of the inpatient sector of the hospital industry in relation to the population in order to control costs." In other words, get those patients out of the hospital faster.

But neither I nor any of my friends have met those doctors who "overutilize" hospital beds, putting patients into the hospital too easily and keeping them there too long. I have found it hard to get past the close scrutiny of the peer review committee and into a hospital unless I was scheduled for an operation or in extremis (this is particularly true at Sloan-Kettering, a better mousetrap almost always filled to capacity). I have found it equally hard to stay in, and many of my

friends and family have been sent home after three or four days, teetering and tottering—whether they've had a baby, a hernia operation, or experienced an accident or mugging.

In between hospital and home is a no man's land which the health care "system" has not been imaginative at filling. Sister Rosemary, a crackerjack Sloan-Kettering social worker, places me in an exception to this rule, "hospital housing." I have a comfortable apartment where my husband and children can visit and help me out, and I can easily walk the few blocks to the hospital for my daily radiation treatments. Even this arrangement has its Catch-22: though the price is right—about \$40 a day as compared to my \$400-a-day hospital bed—I would have been better off financially staying in the hospital, where my high-option Blue Cross insurance would have picked up the entire tab.

Back in Washington, I call the Visiting Nurse Association and a few similar agencies to see if I can get some extra help on the days when I have chemotherapy, when I feel terrible. But I cannot; I am not sick enough.

About 130 mostly elderly D.C. General Hospital patients have a different problem. They do not need the expensive "acute care" they get in the hospital. But they need some care and there are no nursing home beds open to them they can afford, so they stay on, getting what is technically described as "inappropriate" care and costing the hospital some \$10 million a year instead of the roughly \$2.3 million their care would cost in nursing homes. Searching for solutions to help patients, hospital and taxpayers as chair of the D.C. General Commission's Planning and Development Committee, I find an HEW "swing bed" demonstration program used largely in rural areas. We are about to apply for a grant which would enable us to demonstrate that an inner city hospital can set aside a number of "swing" beds which could be used for either acute or sub-acute care as the need might be, and reimbursed accordingly. But we find the program has been so successful that it has been frozen while Congress considers whether to apply it nationally. Catch-22 again.

Great reams of computer printouts come in the mail from George Washington University Medical Center each month. The computer stands as the new arbiter; we patients are in its hands. I try to monitor its judgments. My husband and I have paid insurance premiums over the years, we deserve the benefits that are due us, but at the same time, we want to deal fairly with the insurers—and so help keep costs reasonable for everyone.

Sometimes we catch a mistake: A consultant enters his charge under the wrong code and the insurance company refuses to pay it. I complain; the doctor's secretary erases the charge and re-records it under a different code; months later it shows up correctly in the computer printouts.

Sometimes we catch what seems to be a mistake. In January I get a bill for \$125 for hospital care the previous September. I was in the hospital at that time, but I do not even remember meeting the doctor and cannot recall his name. Puzzled, I write the doctor that there must be some mistake. We correspond in vain; he says that he was "attending" on the neurology floor the month of my stay and his fee is in fact low. He knows I have only to give in and sign my insurance form and he will be paid.

The medical marketplace is unreal. My hospital bed costs—\$242 a day in Washington, \$400 in New York—are paper figures. There are buyers (us patients) and sellers (our hospitals, clinics, doctors and their aides), but we seldom face each other at the cash register. Dr. Thomas Fahey, my Sloan-Kettering doctor, prescribes a new drug for

me, tamoxifen, an anti-hormone developed in England. It costs about \$100 a month at the time; my insurance will pick up 80 percent of the bill.

What do people who are uninsured (22 million) or underinsured (another 20 million) do? How about the nearly two-thirds of the poor not covered by Medicaid? I ask Dr. Fahey, a fine physician who worries about these questions too. He says he has a patient he wanted to put on tamoxifen. No way could she afford it; she lacked the insurance. Nevertheless, he sent her down to the pharmacy with a prescription, telling her he'd find a way to pay the bill (the same is true at George Washington or D.C. General—if there's no insurance, someone, usually the taxpayer, will foot the bill for what's needed, whether it be a CAT or expensive medication.) He feels we need a national health insurance plan covering "not nose jobs," but honest costs of catastrophic illness.

Back to the "Environmental Assessment." Regulation of the health care industry will increase and intensify, I read. Regulation will "become more politicized both in terms of greater conflict between regulators and the regulated and in terms of greater visibility of health care as a political and electoral issue. . . ."

My bones ache and pains wax and wane. As they wax, so do the news stories about the nontoxic drug interferon. A way has been found to synthesize this rare antiviral substance manufactured in the body; reports of its great potential as a cancer treatment abound. I read a congressional committee has returned the HEW secretary's budget to her, telling her to spend more on interferon.

I spend the day on the telephone, trying to find out what's what. Might interferon help me? If so, can I get some? The doctors are so unanimous in answering the first question that I don't bother with the second. They doubt interferon is for me. In fact, they have been disappointed in it. Thus far what success it has shown has been largely with lymph, not breast, cancers. One doctor says the only cancer center that has reported encouraging results is M. D. Anderson, in Houston, and he feels they are inclined to be positive about everything. A breast patient of his had gotten hold of some interferon and grown worse after interferon treatment. This might have been coincidence, but he doubts it.

Washington doctors have experience with the "politicization" of health issues. One tells me that Rep. Claude Pepper has experienced in his family the unpleasant toxic effects of chemotherapy; with passionate philanthropist Mary Lasker urging him on, he has been advocating more federal funding for interferon. Like the Congress, I am frustrated at not being able to legislate faster cancer treatment research results out of the scientists. But I agree with the poet-physician Lewis Thomas, Sloan-Kettering's chief, that laboratory researchers someday soon will, in their building-block way, uncover the mechanism at the root of cancer. I feel sad that it will probably not be in time for me.●

THE THREE-TIERED FARE SYSTEM FOR THE AIRLINE INDUSTRY

● Mr. CANNON. Mr. President, yesterday the Civil Aeronautics Board approved a new three-tiered fare system for the airline industry. This would allow airlines, effective today, to raise fares an unlimited amount for route distances of 200 miles or less; 50 percent above base for distances up to 400 miles; and 30 percent above base for distances over 400 miles.

I am immediately struck by the inherent discriminatory nature of this sys-

tem based on distance with an obvious potential for the smaller communities of the country bearing the brunt of these increases. While I am generally in favor of increased fare flexibility, I am extremely skeptical of the discriminatory application of that flexibility. I have already announced hearings for next Tuesday, May 20, 1980, so that we can immediately look into this matter and encourage the Board to reconsider its action of yesterday.●

NUCLEAR SAFETY: THE BOTTOM LINE

● Mr. GRAVEL. Mr. President, there is hardly an issue which has been the subject of more reports, reviews, commissions, investigations, special inquiries, hearings, and so forth than the nuclear power safety issue. Yet rarely is much, if any, attention paid to the two words which say more about nuclear power safety than all the verbiage generated by the nuclear industry and the Government. Those two words are "Price-Anderson."

Under the Price-Anderson Act, passed in 1957 and renewed twice through 1987, financial damages can be collected by nuclear accident victims only up to a total of \$560 million per accident, despite estimates that damages could be in the tens of billions of dollars. This limit on liability is both unfair and dangerous.

The \$560 million limit on liability means that in a serious accident, injured parties might be able to collect only 3 or 4 cents on each dollar of damages. This violates the basic principle that those who cause damage should be held fully responsible for it. In effect, all of us—including those who oppose nuclear power—are being forced by this law to underwrite the nuclear industry's hazards.

Artificially unburdening nuclear power of one of its major drawbacks—the possibility of huge lawsuits—gives it an unfair advantage over all other competing energy sources, none of which enjoy this special protection.

Mr. President, in a free enterprise system the normal constraint on reckless activity is financial responsibility for the consequences of that activity. By removing that important concept from the nuclear industry, the Federal Government is encouraging recklessness. It hardly takes a nuclear engineer to understand that a company whose assets are fully exposed to liability lawsuits will be less likely to engage in reckless activity than one whose assets are artificially protected.

The nuclear industry and its defenders in Government have for many years insisted that nuclear power cannot survive without limited liability. It is paradoxical that on the one hand we are assured that nuclear disasters will never occur, but then we hear that a special law is needed to protect the assets of those who cause the disasters. If accidents are so unlikely, as loudly proclaimed in mountains of reports and advertisements, I would like to know why the nuclear promoters will not put their

money where their mouths are and expose all their assets to suits after accidents that will never happen.

Mr. President, I think it is important to understand that not only through its actions does the nuclear industry express "no confidence" in its own safety claims, but so does the insurance industry. The insurance industry refuses to insure nuclear utilities for damages above the \$560 million limit, and it will not even write insurance policies up to the \$650 million limit. When insurers, who are necessarily society's best risk assessors, refuse to sell insurance it is good evidence they expect accidents to happen. We all know insurance companies like to collect premiums for insurance against claims they never will have to pay.

Additional evidence of lack of confidence by insurers lies in the fact that homeowners' policies specifically exclude nuclear plant damages.

Mr. President, as a strong advocate of the free enterprise system, and an ardent opponent of nuclear socialism, I think it is time to restore some realism to nuclear power. I have, therefore, introduced a bill to repeal Price-Anderson's limit on liability, S. 1082. I believe that by applying normal business prudence to nuclear matters we will do far more to improve nuclear safety than anything a bureaucracy such as the Nuclear Regulatory Commission may do.

I am pleased that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Michigan (Mr. LEVIN) are cosponsors of S. 1082, and I hope that as other Senators hear from citizens angered by the inequity and recklessness of Price-Anderson they will join us as cosponsors of the bill.●

CONTROLLING WILD BURROS

● Mr. GOLDWATER. Mr. President, in my State of Arizona we have a growing problem with wild burros. The uncontrolled growth in the number of wild burros is now recognized as a threat to the survival of wildlife and livestock in some sections of the State. There is need for effective measures to control the size of these burro populations. Because of this problem the Arizona State Senate has recently passed a concurrent memorial urging the Congress to authorize the State of Arizona to implement measures to control wild burros. I ask that the Arizona memorial be printed at this point in the RECORD.

The memorial follows:

SENATE CONCURRENT MEMORIAL 1005

Whereas, in the period of time following the passage of the Wild Free-Roaming Horses and Burros Act by the Congress, these animals have expanded their numbers to such an extent as to cause considerable damage to the grazing and watering resources available to livestock and wildlife within the State of Arizona; and

Whereas, the uncontrolled growth in the number of wild burros in Arizona and the attendant overuse of life-sustaining resources is now recognized as a threat to the survival of wildlife and livestock in those areas where the burros are found; and

Whereas, in response to this situation many programs have been initiated, attempting to control the size of the burro

populations by transferring these animals to private lands with the "Adopt-a-Burro" program; and

Whereas, these methods are not only expensive, with an estimated average cost of eight hundred dollars per burro, but are also proving to be ineffective, to the extent that at least one burro herd in Arizona tripled its numbers since the passage of the Act; and

Whereas, there is growing concern in Arizona over these impacts and developments, with an increasing need to expand the activities to control these animals.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the Congress of the United States be advised of the support for alternative burro population control methods that exists in the Arizona Legislature.

2. That the Congress of the United States amend the Wild Free-Roaming Horses and Burros Act to allow officers of the Arizona Game and Fish Department to remove or take burros when, in the opinion of the Department as confirmed by the Game and Fish Department and in cooperation with the appropriate federal land management agency, it is necessary to reduce the number of burros in a given habitat or range, without penalty for such officers.

3. That the Congress of the United States direct and empower those federal agencies responsible for the management of land or land-based resources in the State of Arizona to act to control or otherwise reduce the size of burro populations when it is found that they are producing adverse impacts upon livestock or wildlife on federal lands, and that the Congress further provide the funds necessary for such actions by federal agencies.

4. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and to each Member of the Arizona Congressional Delegation.

THE RIGHT MAN FOR AN IMPORTANT JOB

● Mr. MATHIAS. Mr. President, it is a source of great personal satisfaction to me that Harlan Cleveland, one of the Nation's most distinguished public servants, has been named director of the University of Minnesota's Hubert H. Humphrey Institute of Public Affairs. It is good to know that this living memorial to our beloved friend and colleague is in the care of one of our most thoughtful citizens and one who was a close personal friend of Hubert's.

Harlan Cleveland's remarks in accepting the appointment as director of the Hubert H. Humphrey Institute of Public Affairs reflect his appreciation of the qualities of mind and heart that made Hubert Humphrey such an extraordinary human being and his determination to make the Institute express the qualities of leadership which Hubert Humphrey embodied.

Mr. Cleveland spoke of Hubert's sense of personal responsibility for the situation as a whole. "He felt a personal responsibility," said Mr. Cleveland, "for growing more food, making useful goods, distributing wealth fairly, creating better jobs, combatting inflation, managing government, and insuring international peace. We need a million more like him, and American higher education is not doing enough about it."

Under Harlan Cleveland's skilled direction, I suspect the Hubert H. Humphrey Institute of Public Affairs will begin to fill that gap. I ask that the text of his statement to the University of Minnesota Board of Regents be printed in the RECORD at this point.

The statement follows:

STATEMENT BY HARLAN CLEVELAND

Madam Chairman, Members of the Board of Regents: I greatly appreciate your invitation to become Director of the University of Minnesota's Hubert H. Humphrey Institute of Public Affairs. I am thoroughly sold on the potential of the Institute, and impressed with the quality of support that is available for such an enterprise in this incomparable community called Minnesota.

To undertake this task in honor of Hubert Humphrey, and in the presence of Muriel Humphrey, is something almost inexpressibly special. I always thought of Hubert as a bustling bundle of practical compassion, blessed with an intellectual curiosity that embraced the world and even outer space, and blessed also with an infinite capacity for warmth and friendship. My wife Lois and I were among the many thousands of people who regarded him as a close personal friend. We never quite figured out how a person could have close personal friends numbered in the thousands.

Hubert Humphrey was that rare public official who could be a hero without needing a pedestal. Unlike some heroes I have known, he did not have a public face and a private face; rather, he was made of the same stuff all the way through. To serve in some sense as his surrogate, to act and help others learn to act as he would have acted in public and international affairs, is a one-of-a-kind opportunity. I eagerly accept it.

"Public Affairs" is not one more discipline, to be defined by a particular method of analysis. It is not a new profession, either, in the tradition of medicine and business and law. It is the public action, the public responsibility component of every profession.

"Public Affairs" focuses on how the general management of any society uses expert knowledge and specialized methods to make something happen. It is concerned with the politics of value and the values of politics. It does not mistake growth for progress, but asks "Growth for what? Growth for whom?" And it keeps asking the question, "How do you get everybody in on the act and still get some action?"

In "Public Affairs," research and analysis must above all be integrative. "Public Affairs" education means learning to think integratively. And right here is the chief bottleneck, I think, in our society of specialized achievement.

Both in universities and in the world of work, education and training are concentrated on producing first-rate specialists. We need them badly. But as we multiply the specialization of knowledge, we need even worse what we are not producing—the leaders who can "get it all together."

The ladder to leadership in our society is always expert excellence. But the practice of leadership is a different line of work, requiring different insights, different intellectual tools, different values, and different personal relationships.

If the central concern of an institute of "public affairs" is the reflective practice of leadership, the institute needs to work across the university with every discipline and profession, and outside the university with diverse local, national and international communities that are trying to clarify the purposes and develop the techniques for getting things done in the public interest.

Several years ago, perhaps with Hubert Humphrey as my subconscious model, I list-

ed four attitudes as indispensable to the management of complexity:

The notion that crises are normal, tensions are promising, and complexity is fun; A realization that paranoia and self-pity are reserved for people who don't want to be leaders;

The conviction that there must be some more upbeat outcome than would result from the sum of available expert advice; and

A sense of personal responsibility for the situation as a whole.

Hubert Humphrey was the very model of a situation-as-a-whole person. He felt a personal responsibility for growing more food, making useful goods, distributing wealth fairly, creating better jobs, combatting inflation, managing government and ensuring international peace. We need a million more like him, and American higher education is not doing nearly enough about it.

Minnesota has already done more than its share to sponsor innovation and provide quality leaders for America. By betting on the Hubert H. Humphrey Institute of Public Affairs, Minnesota is pioneering again—and I am looking forward to joining you on the frontier. ●

ROBERT DIXON, JR.

● Mr. DANFORTH. Mr. President, recently the Nation lost a great constitutional scholar and Missouri a great citizen with the death of Robert Dixon, Jr., a former Assistant Attorney General of the United States and Daniel Noyes Kirby professor of law at Washington University in St. Louis. Renowned as an expert in the field of constitutional law, Professor Dixon was—without question—the leading scholar in the country on the subject of reapportionment. In 1968 he received the prestigious Woodrow Wilson Award for his treatise "Democratic Representation: Reapportionment in Law and Politics."

Last year I was fortunate to be able to call on him to testify in hearings on my proposal to end the gerrymandering of congressional districts. Later he provided counsel to my office in the debate over the legislative veto of FTC regulations, a subject to which he had given considerable study. Invariably he was generous in giving freely of his time. He will be sorely missed by my office and the legal community.

I ask that an article from the May 7 Washington Post, reporting his death, be printed at this point in the RECORD.

The article follows:

ROBERT G. DIXON JR. DIES; ASSISTANT IN 1973-74 TO U.S. ATTORNEY GENERAL

Robert G. Dixon Jr., 60, a former assistant attorney general of the United States and a leading authority on constitutional and administrative law, died of a heart attack Monday at Johns Hopkins Hospital in Baltimore. He was stricken while undergoing surgery for a circulatory disorder in one of his legs.

Mr. Dixon was assistant attorney general, office of legal counsel, from 1973 to 1974. He taught political science at the University of Maryland from 1949 to 1956 and was a professor of law at George Washington University from 1956 to 1975. He was Daniel Noyes Kirby Professor of Law at Washington University in St. Louis, at the time of his death. He taught at the University of Virginia Law School in Charlottesville as a visiting professor this spring.

Mr. Dixon was brought into the Justice Department by former attorney general Elliot L. Richardson. Among the things he

did there was conduct a study of the law of impeachment in view of the possibility that President Nixon would be tried by the Senate in connection with the Watergate scandal. He concluded that if a president tried to withhold evidence in such a trial "a constitutional confrontation of the highest magnitude would ensue."

But much of Mr. Dixon's career was devoted to the law of reapportioning legislative districts. His book, "Democratic Representation: Reapportionment in Law and Politics," won the Woodrow Wilson Foundation Book Award in 1968 and is considered a leading text on that subject.

Mr. Dixon also was an expert in administrative law and was a member of the Administrative Conference of the United States.

A native of Canajoharie, N.Y., Mr. Dixon earned bachelor's and doctoral degrees in political science at Syracuse University. He earned his law degree from George Washington University in 1956 and joined the faculty there in the same year. He lived in Rockville before moving to St. Louis.

In the course of his career, Mr. Dixon received fellowships from the Rockefeller and Ford foundations and the National Endowment for the Humanities. He received the George Washington University alumni Achievement Award in 1978.

Survivors include his wife, Claire, of St. Louis, and three daughters, Mrs. James Ryan of Charlottesville, Mrs. Walter Teagle of New York City, and Laurie Dixon of St. Louis. ●

POLITICAL FREEDOM AND ECONOMIC WELL-BEING

● Mr. GRAVEL. Mr. President, it is widely remarked and commented on these days that America is in decline. We have "a crisis of confidence," it is said. America's submergence into the ocean of history is widely predicted and blamed on morale or morals, or the lack of them.

Can anyone this worried about decadence really be that decadent?

We do have problems—serious problems. But it is hardly because we've become a nation of quitters.

Quite the contrary: As a nation, we are looking for the same things today that we have looked for throughout our history—political freedom and economic well-being—"life, liberty, and the pursuit of happiness."

There was nothing wrong with these goals before, and nothing now; and however uncertain we may feel about ourselves, the rest of the world—including the people of the Communist countries—still looks to America as a land of freedom, opportunity and justice.

Not only are our goals laudable, but we are pursuing them with as much vigor and an even greater maturity than ever before.

It is within this context that I want to talk about what is wrong in America. Because I think there is indeed a serious problem—a structural flaw in our society that has been building for the last 50 years.

It is the nature of this structural flaw that we as people are more prone to use the tool of Government to solve problems which it should not or it cannot solve.

I think this flaw accounts very much for the sense of malaise that we have today. And the flaw is dangerous and insidious—even potentially fatal. But it

is not—not yet—a question of dissipation or purpose lost. So far, it is only apprehension—and a strong case of frustration.

And who would not be frustrated? We do not seem to be able, these days, to get anything done. Our leaders are divided and want to take us in different directions. Even when we are pretty much in agreement (which is rare enough), we do not seem to be able to move. As a nation with day-to-day and week-to-week tasks, whether it is getting energy or grazing cattle, we seem to have fallen into some dream-like slow motion machine.

We cannot seem to make decisions. If we are not visibly floundering over a decision, then we are likely to be standing dead still, making no choice at all. Our society is too complex. We are awash with "data," afraid of "yes" and "no," and positively terrified of being wrong and of being held accountable.

I think that most Americans would recognize these traits as features of the malaise they feel about the country and its future. I think most of us, too, would concede that these are traits often associated with bureaucracy—bureaucracy of all kinds, public and private.

It is no coincidence. Our oversized Government is at the heart of the problems that are causing our "crisis of confidence." And the structural flaw that I have mentioned is the continued constituency of the American people for growing Government, even while we complain about its failure to solve the problems we have already consigned to it, and even when it has perpetuated or enlarged those problems.

I am not trying to set up Federal bureaucracies as scapegoats. I know them to be as competent and as diligent and as sensitive as their counterparts in the private sector. Nor would I dare denigrate the rightful exercise of our national environmental maturity through the use of Government. And the similar use of Government in guaranteeing that responsiveness and responsibility are shown by private industry for its manufacture, called consumerism.

I think it right for Government to seek the implantation of competition in our capitalistic model where none exists. And attention should be given to countering the centripetal force of wealth rather than the present Government inducement to its concentration.

Space will not let me deal with these areas where obviously Government ought to do something. Nor will it allow me to properly treat the even more obvious extremes of Government in their regulations as a result of inadequate checks and balances upon the Government itself.

The oft stated cliché "the least Government is the best Government" has never felt comfortable to me because I think that "the best Government is simply the best Government." It is a tool, use it when you need it and put it down if you do not.

By way of emphasis, there are things our Government ought to do, and things it ought not to do—and things it cannot do. Time only permits me to deal some-

what with the inappropriateness of asking Government to do what it ought not to do and what it cannot do.

It cannot give us a risk-free existence. It cannot duplicate the independent creativity of thousands of individuals and small firms.

And it cannot replace the market system and decide for millions of people what is best for each, the way each can decide for himself.

It also cannot distribute the goods and products of the Nation as effectively, or even as fairly, as the private enterprise system, because it cannot duplicate for itself the incentive of profit and the discipline of loss or the freedom of the consumer-choice mechanism.

Yet we go to Government more and more, asking it to do all these things.

The Government can cause failure in some very creative ways. We have devised the Catch-22, a self-contradictory edict which usually boils down to this: "If you cannot do it, it must be done; if it can be done, you cannot do it." A particularly useful feature of the Catch-22, as we will see shortly, is that it can transfer the appearance of blame from Government to the individual or the company which failed to carry out the self-contradictory order.

Blameless, however, as the Government may try to hold itself, we still perceive it as a delayer, a strangler—and a failer. And yet back we go, again and again, asking for more.

In a curious way, Government even promotes its own growth and power by failing. The pattern is easy to see: If we gave a job to an agency and the job did not get done, then the agency must need more authority, or another agency to see that the first agency gets the job done—like the "Energy Mobilization Board."

Two hundred years ago, physicians were in the same trap—or rather, their patients were. The physician would bleed the patient, using leeches, in order to cure him. If the patient got worse, then he must need more leeches. If the patient died, then the conclusion was that they did not use enough leeches fast enough. The problem is in the premise, but the premise goes unexamined.

If, through its own action (and inaction), the Government causes failure in the private sector, then the Government seeks authority in the future to prevent just such failures as the one it caused.

Here is one example I am familiar with: the proposed Alaska natural gas pipeline.

This project is bogged down today in spite of its nearly universal support. A quarter of our Nation's reserves of natural gas are at Prudhoe Bay, and that gas must be released in order not to interfere with the production of Prudhoe oil (which constitutes more than one-third of the Nation's petroleum reserves). The Congress supports the project—it passed a law to "expedite" it. And the President supports the project—his policy, too, is "expedited handling." And, at this point, the project is delayed. In spite of the Government's support, the Government seems to be incapable of making decisions that would let the project move.

One series of decisions constitutes a classic Catch-22. By law, the pipeline

must be built with private financing and no Government guarantees. The oil companies are chided by the President because they will not financially back the gas pipeline when they are prohibited by law from owning any part of the line. Also the Federal Energy Regulatory Commission has indicated that the \$2 billion cost for a conditioning plant cannot be passed on to the gas consumer, but must be absorbed by the oil companies, increasing their costs, thereby causing the oil consumers to pay more for oil, thereby subsidizing the gas consumers. "If you cannot do it, then it must be done." Catch-22.

We also have in the gas line case a ladder of failure that has elevated the Government to new power:

When the Alaska oil pipeline was built, Government requirements as well as long delays that were mostly the Government's fault combined to make the cost of that pipeline skyrocket—\$1 to \$8 billion. Having caused that cost overrun, the Government was then handed new authority by Congress to prevent future cost overruns. It can now regulate the equity return that the investors in the gas line will receive. The higher any cost overrun, the less they can receive, regardless of the fact that the Government may cause the overrun.

When all this fails and the pipeline cannot be built privately because of self-contradictory regulations, then the Government will undoubtedly step in with guarantees. And in the process, no doubt, its authority over the whole project—and over all future pipeline projects—will expand and the market will never be able to judge the economic efficacy of the largest "private" project in the history of the world.

And one more example: The Sohio pipeline through California. The company spent 5 years and \$60 million trying to cut through the jungle of regulation and nondecision. They finally gave up, not only in frustration, but also because the economics dried up. And now that the Government has killed it, suddenly the Congress is looking at having the Government build the project in the face of poor economic risk. In any event, I doubt the Government could get the necessary construction permits from Government.

So, for the Government, nothing succeeds like failure. We must be true believers because we keep coming back for more. And we get it: Not more help, but more Government—and more failure.

One more item: The Alaska lands issue, known to those of us who are constantly involved in it as "(d) (2)." The expression "(d) (2)" comes from section 17(d) (2) of the Alaska Native Claims Settlement Act. It is the section that orders the Secretary of the Interior to withdraw lands in Alaska—up to 80 million acres—for possible designation as parks, refuges, national forest, and wild and scenic rivers.

This issue is motivated by the preservationist community, and has been taken on by the President as his No. 1 environmental goal. Representative MORRIS UDALL has brought about passage of a bill in the House of Representatives

that would set aside upward of 120 million acres of land. This Federal land is so strategically located that its withdrawal would deny economic use of additional Federal lands, as well as State-owned and private lands, on the order of 100 million or more additional acres.

The proponents of this action have a set of clichés: "We are not going to make the same mistakes in Alaska that we have made before."

These claims are specious. Today there is more than sufficient environmental law already in place to protect Alaska. This bevy of environmental law that already exists assures that the mistakes of the past will not be repeated. No part of Alaska or the rest of the United States will be despoiled in the so-called rape, ruin, and run fashion. The laws guarantee that the full environmental impact will be known and weighed before future economic activities are undertaken.

Recognizing that protection already exists, then we can see the real purpose of superimposing additional layers of Government control and regulation on Alaska, at a cost of \$1 billion: The purpose is not protection, but denial of any economic activity in the State. By creating bureaucratic barriers that cannot be reasonably penetrated by thoughtful and responsible economic actors, all economic action can be brought to a standstill.

The effort to lock up Alaska and to deny its many treasures to the American people seems to have acquired the force of a tidal wave. Not only did the House pass Congressman UDALL's bill by a large margin, but President Carter has already acted unilaterally to create 56 million acres of national monuments in Alaska. This is happening, I think, because more Americans do not understand its implications.

Alaska is indeed a treasure chest. In this chest, we have wilderness, parks, game refuges, recreational areas—and also urban development, oil and gas potential, mineral potential, great fisheries and forest resources, and more. For one small group—the preservationists—through the exercise of disproportionate political strength, to reach into this chest and take only the wilderness treasure and then slam the lid shut is arrogant beyond belief. They are acting to the detriment not only of those who have pioneered and made their homes in this unusual land, but also of all Americans and of their economic and recreational needs.

The actions of the President and the prospective withdrawals by the Congress would take from our Federal lands inventory millions of acres of potential oil and gas lands. Last December 1, the President misused the Antiquities Act to create 56 million acres of monuments-wilderness. This action has effectively withdrawn from an energy inventory 40 million acres of sedimentary basin. All this in an effort to bully the people of Alaska into the acceptance of a much larger congressional withdrawal. The recent House action would take from our energy inventory upward of 100 million acres of oil and gas sedimentary basins.

To appreciate the significance of these figures, we should note that Prudhoe Bay contains more than a third of our oil and a quarter of our natural gas in just 190,000 acres.

Little wonder that we Alaskans feel ravaged by the Federal Government and overreact to those Cassandras of self-fulfilling prophecy who state there is no point in permitting the flow of capital to the oil and gas industry * * * "the oil and gas is not there to be found."

Today's clearest case of Government's "success through failure" is in energy. We are on the verge of nationalizing the energy industry, whether we call it that or not. And if success does come from failure in Government, then we should expect nothing less. Nowhere else have Government's failures been so spectacular. This country is going to continue to refuse to let a free market determine the proper economic time to bring on synthetic fuels. Instead, we are to withdraw billions in capital from the only sector in our economic system that can do anything to alleviate the energy crisis in the short term. Instead, we will funnel our economic decisions through the Government—in the process losing the vital discipline of the market—and wasting billions through Government incompetence.

The Presidential and congressional proposals that the Government should direct the development of synthetic oil is the watershed of socialization of the energy industry in this country. Elements of business and labor seem naive enough to accept the offered "partnership of government." But for those who understand that there never can be a partnership with a generically superior power, they will be bludgeoned into accepting this through the windfall profit tax.

The word "windfall" with respect to a tax on the oil industry was first characterized by Richard Nixon and was used by Gerald Ford, and now is used by Jimmy Carter. It is an unfortunate characterization because it is really not true, because it is a severance or excise tax on crude oil.

To quote Howard Ruff who recently testified before my Subcommittee on Energy:

The windfall profits tax is a proposal by the politically astute to impress the economically ignorant.

"Windfall profit" is a cosmetic term to shift the blame that might possibly fall on Government to the energy industry for the energy crisis.

The use of this rhetoric does great violence to the American psyche, because it creates a perception that a major sector of the American industry has been grossly misbehaving, and that that sector must be controlled and punished by the Government in order to protect the American people. This misperception also discourages the American people from truly understanding the real nature of the energy crisis—a crisis of cost and of price.

Americans are prepared to sacrifice if need be to meet this crisis. But if it is only the oil companies that are the problem with their "price gouging" behavior * * * then why sacrifice, let the Government straighten out those oil

companies * * * that will take care of the crisis. Obviously, our political and media demagogery has been counterproductive to the proper realization of the energy crisis.

This American misperception as to the problem and fault also incapacitates our moderate political leaders because of their fear of going against a strongly held view of the electorate in trying to solve the problem * * * "everyone wants the tax and I have to vote for it even though I know it is wrong."

The American energy industry is enjoying no windfall profits. These supposed profits are the figment of the imagination of those who are intent upon demonstrating the failure of free enterprise so as to rationize a Government takeover. The American energy industry has acted no differently than any other sector of American enterprise, and their range of profits are within the average of the return on all enterprise. This fact is easily proven and would be easily understood if there were faith in the free enterprise system.

But because of a colossal national misperception, the Government is able to strike at the heart of the free enterprise system—in a word, going for the jugular on the neck of the golden goose.

Never mind that the oil company "windfall profits" do not exist—or that a higher price for a scarce commodity is the only way to increase its availability. It says a great deal about how far we have gone when people so easily accept and support the concept that the lifting of price controls after 5 years constitutes a "windfall profit" to a company rather than a 5-year denial of legitimate profits to that company.

As we turn again and again to Government for economic well-being—and wind up with failures—we undermine our other goal: individual political freedom.

And this road we are on does not lead only to economic inefficiency. If the Government can tax nonexistent windfall profits in the energy industry, can that same Government be far from collecting nonexistent profits from the rest of business which has no real constituency in this country?

We are ceding more and more power to our Government. So far, this power is being used negatively, intervening and interfering in the private sector, but not taking an active role. Obviously, we are afraid to unleash Government power in that way—and we should be.

But history makes it abundantly clear what will happen if we continue to relinquish power to a central government. Its appetite for more power will only grow—its musclebound paralysis will only frustrate the people and the Government itself all the more—feeding it more power and eventually the dam will break and this reservoir of power will sweep away our liberties.

If, by asking Government to do things it really cannot do, we are slipping backward from our national goals, then why do we persist in turning to Government? At bottom, I think, it is because people do not see their welfare protected anywhere else. The Government may be a

bungler—and the people may see it—but in seeking their own security, they see no one else who protects them.

To most of us, security means income. If we have a paycheck, we have some security. Our Government does protect income. Americans may work in the private sector, but they live in the house of Government.

For the indigent, Government provides welfare. For those threatened by labor-saving technology, it tolerates "featherbedding." For those employed in failing corporations, it has soft loans and the Government contracts to keep the corporation floating. And at the end of the spectrum, we have the prospect of the Government as employer of last resort.

For the individual, whose economic security is his first responsibility, the Government consciously or subconsciously is his friend. The corporate sector will cast him aside if he has no productive mission to fulfill. And if he has no capital to earn him an income when his labor is not needed, he can only face the stark terror of economic insecurity.

Our citizens have no direct stake in our free enterprise system. They only have a stake in a job working for the free enterprise system. Capitalism is without a meaning constituency in our democracy.

Consider these figures:

Approximately 1 percent of Americans own 25 percent of America's wealth—5 percent own half its wealth. And that distribution has not changed appreciably during this century.

Little wonder that most people do not see their welfare in the free enterprise system—much less understand how they benefit from its natural efficiency. They barely care about the economy at all. They care about their jobs, their income, their economic security—and that is perfectly natural.

So how can people learn that free choice is generic to the market system? How do they learn that this is part and parcel of our larger goals—individual freedom and economic well-being?

Even though we are still pursuing our historic goals as a nation—our legitimate and laudable goals—and even though we are pursuing them as vigorously as ever, both for ourselves and for the rest of the world—we are doing so more and more by experimenting with socialism. This is self-delusion. Under an all-powerful central government, we will wind up with neither individual freedom nor economic well-being.

But if we are to turn back from the road to socialism, we are going to have to build a constituency for capitalism. It has little constituency today.

We must broaden the ownership of capital. When people own "a piece of the rock" and begin to receive dividends, their interest in the health of the private sector will grow dramatically.

I am talking about the ownership of the new capital that must be created in the future to meet our needs—not the confiscation of existing wealth.

And I am not suggesting that this ownership of capital wealth use the Government system for distributing income—that is, transfer payments—but rather use the corporate and capitalist system,

without the participation of Government. Obviously, Government can and should act as the check on abuse and arbiter of justice in the undertaking.

The fatal flaw of socialism—in trying to share wealth more widely—is that it centralizes power in the Government without creating the checks and balances that impede Government's tendency toward oppression.

We need to find a way, or many ways, for our citizens to participate in the free enterprise system—to see it working for them—to see the market economy working for their freedom.

How can this be accomplished? I think some of the tools are in our hands now, but I do not doubt that others remain to be acquired, remain even to be invented.

We have a variety of profit-sharing plans. We have employee stock ownership plans and other theories by Louis Kelso.

But I think most importantly, we have the corporation itself. The corporate structure can be molded to the purposes of broader capital ownership and greater economic vigor, both at once. The corporation, after all, is a readymade tool for broad ownership.

In Alaska, the corporation has already been used for this purpose. In settling the aboriginal claims of the Alaska Natives in 1971, we took a novel approach. We ceded land to the Natives not in a reservation status, but rather in fee as an economic base—and, at the same time, we formed a dozen private, profit-oriented, regional Native corporations, giving the Alaska Natives the tool they needed in a modern economy to truly shape their own destiny.

In addition, there is now an effort to start a general stock ownership corporation, which would be owned essentially by all Alaskans. This was made possible by a tax amendment I authored last year removing the corporate income tax as an incentive to broaden capital ownership. The corporation would be chartered by the State legislature, but would be a private enterprise at arm's length from government that would invest in Alaska. This is a first effort. But it is a step toward making everyone truly and visibly the beneficiary of the economic system that has delivered the world's highest living standard—complete with the personal and political freedoms we cherish.

Some may say this is not sufficient solution nor immediate enough to halt this year's inflation or unemployment. I know of no quick fix to a problem two generations in the making. We will be lucky to correct our structural flaw in a decade. In addition to my suggestion to create a constituency for capitalism, what we can do today is fight, and tomorrow fight again, to move the government roadblocks out of the way of private enterprise so as to let business do what it does best—produce.

For me, the reason for this paper and I hope the reason for its reception whether by Democrat, Republican, liberal, moderate or conservative is—freedom.

I am not pessimistic about our future. If we can unleash our creative genius,

nothing can stop our greater maturity and its concomitant reward. The fact that we struggle and flail around in solving our problem is a sign of true health. Only through conflict can we change, and only through change can we improve.

It is from our present cauldron of conflict that our great Nation, and for that matter all people, can and will improve.●

MARYLAND'S SMALL BUSINESSMAN OF THE YEAR

● Mr. MATHIAS. Mr. President, as we mark the beginning of Small Business Week, I wish to draw my colleagues' attention to a distinguished citizen of the State of Maryland—John R. Laughlin, president and cofounder of the Digital Systems Corp. Recently, he has been selected by the Small Business Administration as Maryland's "Small Businessman of the Year." That is a high honor, and I am doubly proud to note that Mr. Laughlin is from my home county of Frederick.

From its earliest days, Maryland has been associated with advanced technology. It is, therefore, fitting that the SBA has recognized a man whose business centers around that centerpiece of the technological repertory—the computer. Just as the steam engine brought on the industrial revolution, and airplanes and telecommunications reduced the world to a neighborhood in my own lifetime, so now computers and information processing systems portend a third technological revolution that will likely surpass all earlier ones in sweep and consequence. John Laughlin's company is in the vanguard of this revolution, and his Galaxy 5 microcomputer, which he and his brother launched 5 years ago, is a recognized triumph in the great tradition of American invention.

I will not get into the nuts and bolts of Mr. Laughlin's enterprise—as a matter of fact I doubt if there are many nuts and bolts in the computer. But I think his success at a time of economic difficulty is a great tribute to his foresight as an inventor and businessman.

In 1968 over 300 high-technology firms were started: In 1978 none was. So it is plain that Mr. Laughlin was swimming against an ebbing tide when he started the Digital Systems Corp. in 1975. He had a good idea, and he stuck with it. Digital Systems has provided the State with over 100 jobs and outstanding service, and promises more of the same in the future. The history of this company should be an inspiration to all prospective small entrepreneurs. John Laughlin proves that you do not have to be an employee of a huge multinational corporation or a researcher at one of our major universities to participate in the tremendous technological adventure that is underway in the world today.

Throughout our history, this Nation has achieved greatness again and again because of the genius of men and women like John Laughlin, who successfully combine science and the marketplace. Even with the wonders of modern science at our disposal, the challenge of explor-

ing and coming to grips with our universe is just as great to us as was the challenge of creating a new world in the wilderness to the men and women who arrived on Maryland's shores three and a half centuries ago in those two small ships, the *Ark* and the *Dove*. I am proud to hail John Laughlin as a distinguished contemporary explorer, as we honor him as Maryland's Small Businessman of the Year.●

THE MX MISSILE

● Mr. HATFIELD. Mr. President, in the past week we have been beleaguered recipients of the 30th major change in the design for basing the MX missile in a shall game concept in the Southwestern United States. The latest linear design—now known as the dragstrip—replaces the ill-fated racetrack scheme. I am quite certain that we will receive the same solid assurance from the Air Force that this—like the racetrack—will be the "final" solution to the problem of Minuteman vulnerability. I am equally certain that the new design will do absolutely nothing to mitigate the snowballing political and environmental opposition to the MX system, reduce the ultimate cost of this \$50 to \$75 billion project, lessen the window-of-vulnerability period during which the U.S. ICBM system will move toward a highly dangerous launch-on-warning strategic stance, or improve the likelihood that Soviet technological advances will not render the entire system vulnerable before it is fully deployed.

Yet in the face of these nearly intractable problems, the Department of Defense stubbornly continues a concerted campaign to discredit an alternative basing system, the shallow underwater mobile (SUM) concept, which appears to respond to all these concerns far more cheaply, effectively, and intelligently than any multiple protective shelter (MPS) concept.

The most recent effort of high officials in the Department of Defense to unfairly discredit the SUM system lies in their official testimony before a congressional committee that the SUM system could be destroyed by huge tidal waves caused by a Soviet nuclear barrage bombing of the one-quarter million square miles of U.S. coastal waters, where SUM is to be deployed.

The fact is, Mr. President, that at the time they were telling congressional committees that the SUM system would be vulnerable to the Van Dorn effect, they were using as reference copies of the CONGRESSIONAL RECORD of November 9, 1979, in which the SUM system is described in full. In that description, I made amply plain that SUM would be deployed off the continental shelf in waters deeper than 400 feet. In that same RECORD, it was made plain by Drs. Drell and Garwin, designers of the SUM concept, that the Van Dorn effect had been fully anticipated and that the proposed deployment method was designed to completely vitiate the dangers of such nuclear tidal waves. Department of Defense officials privately agreed then that the Van Dorn effect was not a threat to

SUM as it was proposed in the November 9, 1980, RECORD.

My colleagues might understand my sense of frustration when, 5 months later, it was reported that these same officials were testifying before Congress that SUM could be destroyed by the Van Dorn waves. Absolutely no mention was reportedly made of the proposed deployment scheme or of the body of scientific thought that totally refused the claims that these officials were making. This is a sad, but growingly typical, example of how a technically proficient, fiscally sound and strategically stabilizing alternative to the MX is not being given a fair hearing because of interdepartmental rivalries, and a growing fear that SUM might well be seen as a viable replacement for the inherent flaws in MPS basing.

I might add for the record that this testimony was followed by a Department of Defense study on SUM which rested on a substantial lack of technical information, and which drew conclusions against SUM from this insufficient data that were often highly exaggerated and, in some cases, probably false.

I ask that a recent article on the unsuccessful effort to discredit SUM be printed in the RECORD. I also request that a detailed response by Dr. Sidney Drell to the Department of Defense study of SUM be printed in the RECORD.

The material follows:

ATTACK OF THE ATOMIC TIDAL WAVE: SIGHTED S.U.M., SANK SAME (By Bill Keller)

On March 25, the Defense Department dramatically disclosed in public one of the ghastly secrets of modern nuclear strategy. Testifying before a House subcommittee, Pentagon officials revealed that an enemy could barrage our coastal waters with nuclear warheads timed to explode under the ocean, creating an immense tidal wave. ("I can't tell you how big," a Pentagon PR man later confided in a hushed voice, "but it starts out at a height not unlike that of the Empire State Building.") This great breaker, called the "van Dorn effect" (after the Defense Department scientist who discovered its potential), would destroy all vessels in its path and, incidentally, smash coastal cities into so much driftwood.

It was an uncharacteristic performance for the Pentagon, not an organization famous for its dedication to the public's right to know the latest military secrets. In fact, the van Dorn effect was precisely the sort of secret you might expect the generals to want to keep, on the off chance the Soviets hadn't heard of it. But, as the hearings wore on, it became clear that our top defense planners had come to believe they had little choice but to reveal the secret in all its terrifying details. It was the only sure way to eliminate what they perceived as a threat to America's two most expensive nuclear weapons—the Trident submarine and the land-based MX missile. The threat was a new weapon, superior in many ways to anything the Pentagon was building; it was cheaper, more effective, and invulnerable. This was no time to worry about the Russians—Congress was talking about building small submarines.

SUB FOR A HERO

The threat had been present for decades, ever since we began putting our nuclear missiles to sea in subs. Lying in wait under the seas, the submarines could survive any nuclear exchange—for the simple reason that they would be virtually impossible to

find—and after the attack they could deliver their warheads to any point in the U.S.S.R.

The logic of the missile-carrying subs had always seemed to lend itself to a philosophy of "small is beautiful," at least to a minority in the defense establishment. They would trot out arguments like Lanchester's Law, which holds that if you have twice as many weapons, they need only to be one fourth as effective. Since the virtue of subs was that they were hard to track down, it followed that many small subs would be preferable to a few large ones. The fact that small submarines are easier to hide (they present smaller profiles to enemy sonar) seemed to strengthen the case. To military laymen—and I am certainly one—the idea has an obvious simplicity and appeal that is almost irresistible.

But it was not an idea that ever held much sway with Admiral Hyman Rickover. Rickover wanted submarines that could range the world, fast and deep, staying submerged for long periods without the need to refuel. That meant nuclear-powered submarines. And once you've decided to build your ship around a nuclear power plant, Rickover argued to a receptive Congress, you might as well go for economies of scale and load the thing to the gunwales. Under Rickover's guiding hand, each generation of subs got bigger, fancier, and fewer; the contracts to build them got less competitive and more expensive. First came Nautilus, then Polaris and Poseidon, and finally the masterpiece of the Rickover mentality, a self-contained, 24-missile, 240-warhead submersible fortress the size of the Washington monument called the Trident. In the early seventies, the decision was made: where there were 41 missile-carrying submarines in service, America's nuclear deterrent would be packed into a dozen of these \$1.65-billion monsters.

Meanwhile, as the Navy was committing itself to the Trident, in defiance of Lanchester's Law, the Air Force was running into problems with its leg of the nuclear "triad," the land-based ICBMs. (The third leg of the triad consists of long-range bombers, mostly B-52s.) Soviet missiles were getting accurate enough to "theoretically" destroy the silos containing our Minuteman missiles. The Air Force requested a bigger missile with more warheads, known as the MX, so that whatever survived a Soviet attack could deliver a more crushing counterpunch.

There were, of course, those who questioned this widely publicized concept of "Minuteman vulnerability." To over-simplify, they pointed out (a) that what the Soviets can hit in theory, they've never had to hit in practice and probably couldn't, and (b) they could not afford the risk that we'd empty our silos as soon as the attacking missiles appeared on our radar screens, a maneuver called "launch on warning" or "launch or lose." Surprisingly, many military supporters of the MX, including several whom I have interviewed, agree with this critique: no real military need for the MX, except to bolster America's sagging confidence. Back in 1975, Senator John Culver, then a newcomer on the Armed Services Committee, listened to this argument about "psychological insurance" and suggested the Pentagon could save a hell of a lot of money by just hiring a good PR man. Everyone chuckled, and then Congress gave the Pentagon what it wanted. Congress was so impressed with the Russian threat, in fact, that it decreed the new missiles would somehow have to be made invulnerable. The Pentagon's job was to figure out how.

SCREEN DOORS

By 1978, this issue of ICBM invulnerability was the hottest subject in the field of weapons research, and it was chosen as the topic for a three-week summer study session of about 40 academic scientists and Pentagon advisers known as the Jason Group. Among

the group's members is an IBM physicist and Harvard professor named Richard Garwin. Garwin is regarded as a little quirky by the military establishment. He once proposed a cheap defense system for missile sites which involved simply blowing up trenches full of ball bearings and scrap metal in the face of onrushing enemy missiles, sort of a Popular Mechanics Anti-Ballistic Missile. (The idea did not strike the Pentagon as . . . well, sufficiently military.) But Garwin is an acknowledged genius in the field of weapons systems, and the Pentagon is willing to pay for his ideas, maintain his access to classified material, and tolerate his creative eccentricities.

The more Garwin and his think-tank colleagues thought about the alternatives to the Minuteman, the more one alternative began to look extremely attractive. It was the alternative that Rickover had vetoed—the small submarine. At the end of the session, the Jason Group sent the Pentagon a secret paper on what they called the "water-based MX." The proposal looked so promising that they chose to spend the next summer's session refining it.

The idea was simple: take a fleet of little, diesel-powered, no-frills submarines—say 100 of them. Strap to either side a tube containing a missile. When the tube is released, it bobs to the surface and fires, and the missile is steered to its target by a combination of satellite and on-shore guidance systems. The missile would have all the accuracy and firepower of the MX—it could, in fact, be the same missile—with an added virtue that no land-based system could hope to achieve: the ability to hide in the quarter-of-a-million miles of water close to our shores.

The Jason Group picked out a small German submarine that could be modified for their purposes. About 160 feet long, weighing 450 tons, and carrying a crew of 15, each vessel is one-fortieth the size of a Trident, and would cost around \$30 million to build. The group then developed (on paper) the communications and guidance systems it would need. They christened their baby SUM (for Shallow Underwater Mobile) and sent their study to the Pentagon, along with Garwin's arguments that SUM would be far cheaper, would have greater strategic value, and would create none of the environmental problems of the alternatives being considered by the Air Force.

Those alternatives did present quite a contrast to the Jason Group's thinking. Where SUM was simple, the Air Force had proposed, and then discarded, a series of grandiose, complex schemes for making a land-based MX missile a moving target. Eventually they settled on the now-familiar "racetrack" system, in which each missile is to be tucked under the skirts of a huge metal shield-on-wheels and driven around a 15-mile oval of heavy-duty road, pulling up at a series of 23 hardened concrete shelters and secretly depositing the missile in one. The Air Force plans 200 missiles, chugging around 100 racetracks, connected by 10,000 miles of road, and occupying, by conservative estimate, about 8,000 square miles of land in the desert valleys of the American Southwest. As for cost, the Air Force estimates a tidy \$37 billion.

The Jason Group wasn't convinced. Richard Garwin felt it was an "open question" whether the SUM system was superior to the Navy's Trident—open, because it had never been thoroughly studied. But he had little doubt that SUM stood up as an alternative to the racetrack MX. In fact, he estimated that it would cost roughly half as much to have 100 little subs as to have 200 racetracks. And the subs (with two missiles each) could be deployed two to three years sooner.

The Air Force, which was making loud public noises about analyzing every possible alternative for the MX, had to give the Jason Group's plan some consideration. But not much. According to an Air Force official who was privy to ICBM planning at the highest

levels, the SUM proposal was treated from the start as a nuisance. The Air Force wasn't about to hand over its prestigious leg of the sacred triad to the Navy; nor was it about to embark on a submarine program of its own. The official characterizes the Air Force's basic analysis like this: "Put some of our missiles underwater? You've got to be out of your mind."

In the Navy, SUM fared still worse, if that was possible. To an even greater extent than the Air Force, the Navy had already set its course in nuclear warfare—the Trident. ("Admiral Rickover told me in the 1960s that the Navy would never again build a non-nuclear-powered submarine," Garwin recalls.) So among the admirals the little sub sank as if it had screen doors. With the Trident eating up a huge share of the Navy budget, nobody was going to propose another strategic submarine. And then there was a more disturbing, unspoken thought; if SUM worked, if the MX missile really could be launched effectively from cheap, undetectable vessels lurking just off U.S. coasts, then who needed the mammoth, globe-girdling Trident? Troubling, indeed, for while by 1979 there were plenty of Navy officers who now wished the Trident program had never been started, none was ready to endorse an alternative that might sink the program in midstream.

"Oh, there were studies," said a former defense official, now a consultant, who was involved in the Pentagon's handling of the issue. "And every one was b---s---. Listen, I've never had a contract yet to study something where I didn't know what the outcome was supposed to be." As Garwin put in, more drily, in a recent paper, "organizations which derive most of their funds in contracts from the United States Air Force or United States Navy are reluctant to imperil their future by accepting modest study contracts whose success may expose to criticism or termination large programs important to their chief sponsors."

COMPARISON SHOPPING

So it was that the small submarine came to be viewed as a threat by the Navy, the Air Force, and the Pentagon. At first, however, it didn't seem like much to worry over. About the only thing it had going for it were the tireless lobbying efforts of Garwin, and the disturbing fact that it can apparently do everything the MX and Trident can do, more effectively, at a fraction of the cost.

There is, for example, the question of missile range. The big advantage of long-range nuclear subs is their ability to maneuver close to their targets. But the same improvements in range and accuracy that allow the Russians to threaten our silos have been applied to our own weapons, to the point where the newest family of Trident missiles will be capable of hitting Moscow from San Francisco Bay. "If the missile gets longer and longer in range, the submarine doesn't need much range at all, does it?" says Michael McGuire, a British expert in maritime and strategic studies (and a small sub advocate), now at the Brookings Institution.

Then there's Lanchester's law. Ever since America plunged into the nuclear sub business, Russia has invested a huge amount of balsa research on ways of tracking down and destroying our subs. Most likely, they haven't found a way to catch a Trident yet—at least that's what the experts say—but it stands to reason that we are making the game a whole lot easier for them by having all our underwater nuclear eggs in twelve Trident baskets. When you realize that the Tridents are easier to spot and easier to track than the Poseidon and Polaris subs we have used until now, it's not hard to understand the urgency of the Pentagon's desire to protect the other leg of the nuclear triad, the ICBMs.

Unfortunately for the Pentagon, the Air Force's chosen ICBM strategy, the "racetrack" MX, is so awesomely flawed that even

diedhard hawks don't like it. It is hard to know where to begin listing its problems. Not counting its (current) \$37-billion price tag, they include:

Resources: In a region perennially short of water, the military wants to dig deep wells and suck up 90 billion gallons over the next two decades—but the Pentagon is not sure that much water is there. If it is, much of it will be mixed with concrete (twice the amount poured into Hoover Dam) that is also in short supply. The project demands enough electricity for a new city of 180,000 people, and nobody yet knows where that is to come from either.

Environmentalists are worried about damage to the 8,000 square miles of land that will be affected by the project, ranchers are worried about grazing access, and city fathers are concerned about schools and sewers for the 14,000 missile operators and their families. (These groups will have ample opportunity to press their case in the courts—under the nine major and dozens of minor laws controlling federal land use—along with the Shoshone Indians who claim much of the land as their own.) Still, none of these concerns would justify blocking the project if we needed it—if it really did remove the threat of Russian nuclear attack. But it won't.

Arms control: For a project designed to accommodate the SALT II treaty (the shelter lids pop open for easy counting of missiles) the system is an arms controller's nightmare. The point of having 4,600 shelters is that the Soviets would exhaust their arsenal in search of our missiles. But if SALT II falls through, the Soviets can simply build many more warheads, in response to which the Pentagon plans to toss up more shelters, and so on in a wild game of nuclear leapfrog. It's a game they win, because they can build warheads faster than we can build shelters, and while they don't have to shoot their warheads at the MX, we can't shoot our shelters at anything.

Vulnerability: The whole fuss is about "ICBM vulnerability," we're told. But the General Accounting Office says it is "an unresolved issue" whether the military can really hide its missiles in this shellgame arrangement. A million pounds of equipment moving around a racetrack gives off noise, radiation, and about 30 other "signatures" that might make it easy for the Russians to pick the right shell. To guard against such detection, the Pentagon may have to cordon off thousands of extra square miles under tight security, which it has promised never to do.

In case the Russians get good at guessing, the system is also supposed to allow the missile, on its transporter, to "dash" from shelter to shelter even after the Russians have launched an attack. But Garwin points out that a Russian missile launched from an offshore submarine could hit the transporter (which "dashes" at 30 m.p.h.) before it had gotten even a quarter of the way around the racetrack. This, coupled with the possibility of future technology—such as the "real time" surveillance of racetracks by satellite during a nuclear war—leads Garwin to assert flatly that "by the time the first MX missile is operational in a racetrack configuration, the racetrack will be regarded as more vulnerable than the Minuteman silos are now."

THE HAWKS SQUAWK

These were troubling questions, all right, but not too troubling—because, as long as no one except the Jason Group was seriously proposing SUM as an alternative to the land-based MX, they might never have to be answered. The Pentagon could count on reactions like the one I heard from a senator's defense adviser: "The racetrack is screwy. It's unpopular. It's expensive. But what else is there?" And in the fall of 1979, most of the Senate's "doves," resigned to the need to

buy off the critics of SALT with whatever form of MX they wanted, weren't wasting much energy looking for practical alternatives.

The small sub did find one advocate, in Senator Mark Hatfield. From the Pentagon's point of view, Hatfield was a near-ideal choice to be SUM champion. On defense matters, most senators defer to the "experts" on the committees governing military affairs. Occasionally a member of these committees might propose an idea the Pentagon doesn't like and succeed in having it adopted—but such proposals stand little chance if they come from one of the liberal members of the committees, like Gary Hart. They have almost no chance if they come from Mark Hatfield, who is not on the Armed Services Committee, and who is about as close as you'll get in the U.S. Senate to a genuine pacifist.

Still, Hatfield was a member of the Appropriations Committee, through which any money for the racetrack would have to pass. And he was, as they say, doing his homework—collecting material from Garwin, mastering tongue-twisters like "prompt hard target kill capability." The first sign of trouble came when Hatfield made a motion in the Appropriations Committee to strike the MX budget for the year and fund a full-scale study of SUM. The motion failed, but the vote was 15 to 9—too close for comfort, even if Hatfield's support was "soft" and his proposal got only 11 votes from the full Senate when the MX came up on the floor last November. (Instead, the Senate passed an amendment requiring the Air Force to keep its MX options open, which the Air Force has interpreted as meaning only land-based options.)

But there was more danger ahead. It wasn't senators like Hatfield, or the chance that SUM might actually win a surprise vote. It was senators like Paul Laxalt of Nevada and Jake Garn of Utah, and representatives like Utah's Gunn McKay—prominent "hawks" from the Western states where the racetrack complex was to be built. These men could normally be counted on as loyal supporters of Pentagon plans, and, indeed, they were firmly behind the MX missile itself. They were, however, feeling pressure from their constituents. The residents of Utah and Nevada had believed the Pentagon once before, when it said there was no danger of radiation exposure from above-ground atomic tests in the area. They were more skeptical this time, not so ready to accept a plan that would block off their land, drain their water, and disrupt their communities. It was disconcerting to see Garn lecture Defense Secretary Harold Brown about the erosion of popular support for the racetrack, or to see Laxalt and Garn pledge, in a joint statement, "We are more determined than ever to find an alternative to the racetrack basing mode. . . ."

SUM MEETS IRWIN ALLEN

And so the Pentagon, taking no chances, decided to act swiftly against the small sub threat. Quietly at first, in closed-door briefings, defense officials began telling the appropriate committees about the van Dorn effect. Later, when McKay, as chairman of the House Appropriations military construction subcommittee, decided a hearing was necessary to air the alternatives to the racetrack, the Pentagon decided to go public. William Perry, the Pentagon's undersecretary for research, and Seymour L. Zeiberg, deputy undersecretary for strategic systems, went before the McKay committee and testified, in graphic detail, how nuclear explosions in shallow water would ricochet off the ocean floor, creating the vast wave that would demolish any small vessel. "It would simply turn over a submarine and destroy it," said Perry. During a break in the hearings, Zeiberg confided to Washington Post

reporter George C. Wilson that the Defense Nuclear Agency "had conducted exhaustive studies on underwater explosions, studies that the advocates of the coastal submarine did not know about." Wilson dutifully reported this information to his readers the next day, in an article headlined "Pentagon Gives a Picture of Tidal Assault on Subs." Later, for some lawmakers, there was a film illustrating the tidal wave's effects with the scale models used to depict similar calamities in disaster movies. As a finishing touch, the Defense Department hinted at an uncirculated report on SUM that had raised questions about its durability and cost.

When I talked with congressmen and their staffs after the tidal wave story had hit the papers, it was clear that the military's gamble had worked. One senator's aide, who had previously been interested in the small submarines, shook his head and muttered, "It's sort of Buck Rogers, but that damn van Dorn effect has got to be reckoned with." Over at the Pentagon, officials seemed as proud of their little revelation as if they had just bagged a brace of Soviet ICBMs.

There was just one potential cloud on the military horizon, which is that Garwin and his allies had answers to the doubts the Pentagon was now raising. The van Dorn effect? They had reckoned with that one last summer, when it was still a secret. They had, in fact, read the secret studies that Zeiberg revealed to the Post. And their answer had been simple: The van Dorn effect only applies to the shallow waters of the continental shelf. Off the East Coast, this underlip of the North American continent juts out an average of 50 miles, and in some places up to 200 miles. Off the West Coast, where coastal mountains plunge deep into the sea, there is hardly any shelf at all. All that the small submarine needs to do to avoid Russian-made tidal waves is slip out beyond the continental shelf, where even if the Russians decided to sink their arsenal into American waters, they could not hope to destroy more than a fraction of the submarines. And even if you assumed that the subs were "vulnerable" during the time they crossed the shelf going to and from port, they could still spend enough time at sea on their two-week tours of duty to more than match the land-based MX in terms of invulnerability. "In every technical and military respect," declares Kostas Tsipras, an MIT physicist and Jason Group member, "the van Dorn effect is irrelevant to the small submarines."

As for the uncirculated study which purported to show that an effective SUM would cost as much as the racetrack—Garwin had answers for that one too. For example, the study assumes that the bases for SUM will cost as much as bases for the nuclear Trident, despite the fact that small diesel subs do not need the Trident's deep-draft locks or the elaborate facilities to refit its nuclear power plants. The complex maintenance required by the Trident is the major reason why an estimated 50 percent of all Tridents will be out of commission at any given time (which means, remember, only six Tridents at sea)—yet the Pentagon applied the 50-percent figure to SUM's conventional subs, which can be expected to stay at sea for a far higher proportion of their time.

The Air Force knows these things. Perry and Zeiberg, the Pentagon officials who made the March 25 attack on SUM, know them too. Defense officials concede, for example—if pressed—that the van Dorn effect only really applies to the continental shelf. But they are making no great efforts to correct Perry's testimony.

And the van Dorn effect is still the first thing they throw at an inquiring reporter, or anyone else, who expresses some curiosity about SUM. If that doesn't work, of course, they still have other arguments in reserve. As one lieutenant colonel in the Air Force MX public affairs office summed them up:

"Once you get into these small submarines, you have to tell me the Navy's been doing the wrong thing for 30 years."

STANFORD UNIVERSITY,

Stanford, Calif., April 11, 1980.

HON. JOHN SEIBERLING,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SEIBERLING: Thank you for the opportunity to participate with Dr. Garwin in your informal hearing of Thursday, April 13 on the SUM and racetrack basing modes for the MX with Dr. Zeiberg, General Hecker, and other DOD officials and Air Force officers. It was a useful exchange of views. It has also been exceedingly valuable to have had the opportunity, following our meeting, to study in detail the draft of the report, "An Evaluation of the Shallow Underwater Missile (SUM) Concept," dated April 3, 1980 (henceforth referred to as the draft report), prepared by Dr. Zeiberg's office [Office of the Deputy Under Secretary of Defense for Research and Engineering (Strategic and Space Systems)].

I do not believe this draft report provides an adequate basis for the conclusion expressed by Dr. Zeiberg in Thursday's discussion that "there is no particular motivation to be interested in SUM." As the only currently existing DOD report on SUM, it also does not provide a valid basis for the Administration or the Congress to dismiss the SUM basing option. In this letter I wish to provide for the record, as you requested, my response to key statements made in the draft report and by Dr. Zeiberg in last Thursday's discussion which lack an apparent analytic basis. I believe that SUM is a promising option for meeting the growing U.S. concerns about survivability of our fixed land based ICBM's.

First, let me say I was pleased to hear from Dr. Zeiberg directly that the van Dorn, or surf zone effect, is irrelevant to the proposed SUM deployment. I hope we will hear no more of that allegation. I am also interested to hear him say that command, control, and communications (C³) and accurate guidance are not viewed by him as special difficulties or inadequacies of the SUM concept. When we started our JASON study in 1978 these were the two aspects most frequently raised in support of retaining a survivable land based ICBM component of the U.S. strategic deterrent. Indeed, motivated by such concerns, our JASON study efforts of 1978 and 1979 heavily emphasized the development and description of robust C³ and accurate guidance techniques.

I note that these factors are still occasionally raised in some quarters as drawbacks of SUM. For example, the official Air Force response (by Colonel Richard D. Osborn, USAF, Chief, Systems Liaison Division Office of Legislative Liaison, dated April 1, 1980) to Senator Hatfield's letter of January 29, 1980 to the former Secretary of the Air Force requesting Air Force comments on SUM states: "Operation in deeper water would also diminish the capacity for high confidence C³ and weapon delivery accuracy." As described in our original proposal, SUM is intended to be deployed, for the major part, in deep water in an ocean band some 200 miles wide off the east and west coasts. Its near coastal deployment in these waters was designed specifically to enhance the technical feasibility of robust C³ and of good guidance relying on a ground beacon system as well as on NAVSTAR satellites. This is not changed in our proposal, and it is not evident therefore that the Air Force and the Deputy Under Secretary of Defense for Research and Engineering are in full agreement with one another. On the basis of the ideas developed in the 1978 and 1979 JASON studies, I believe the SUM concept suffers no inadequacies or special difficulties with regard to robust re-

liable C³ and good guidance. I have seen no analysis to suggest otherwise. I welcome Dr. Zeiberg's agreement on these particular issues. I suggest that it would be valuable to move ahead with detailed design studies of some of the C³ and guidance ideas advanced in the JASON studies because they may prove to be of substantive value to our Poseidon/Trident forces, as well as to the proposed SUM deployment.

The basic case against SUM is summarized on page 2 of the draft report, which states:

"SUM is unlikely to be cheaper than MX; considerable technical advances have to be invoked to make it comparable to cost to MX (or Trident) type systems.

"SUM is unlikely to be available before the 1990's.

"SUM must operate in deep waters as a short range submarine with no apparent advantage over conventional submarines such as Trident. Therefore, substituting SUM for MX would represent an abandoning of the Triad in favor of a Dyad of bombers and submarines, not the creation of Quadrad."

I searched in vain for an analytic basis for arriving at the second and third of these three conclusions, but found none at all. Concerning the first conclusion about costs, I can only comment that the cost of the MX/racetrack weapon system is itself still, after extensive study, uncertain (see the report by the Comptroller General to the Congress, PSAD-80-29), and too little systems work has been done on SUM to permit it to be costed reliably. As the draft report comments on page 48, "The costs shown for SUM are not of budgetary quality and individual costs must be treated as such." Therefore, it is hard to make any definitive cost comparisons.

However, two observations on costs are relevant. First, let us accept the draft report's design of a fuel cell powered "minimum essential submarine" of 1100-ton pressure hull displacement, loading 4 MX missiles. (This size is scaled by the requirement of a four-week mission duration and may, or may not, turn out to be preferable to our JASON report's "point design" of a 500-ton mini-sub loading 2 MX missiles). This means that 25 boats with 100 MX missiles are required on station in order to reproduce the same survivable megatonnage designed in the racetrack deployment of 200 MX missiles (against the projected Soviet threat as limited by SALT II). Given the minimum maintenance requirements for the small submarines and missile capsules and the fact that they are at all times near to their deployment areas, a force of 40 boats would seem fully adequate. However, the cost comparisons in Table V on page 49 are based on a force of 50 boats—i.e., on the assumption of only 50 percent duty cycle for the SUM force. This difference translates into a \$2B savings in investment, plus operational savings. On the other hand, additional costs for naval equipment and operations are required to counter potential threats to the SUM boats will presumably be incurred thereby increasing the system costs.

"SUM is unlikely to be available before the 1990's."

Past experience shows that, if we are determined to, we should be able to initiate a SUM deployment well before the 1990's. Let us recall the history of the Polaris project: Less than 4 years were required to proceed from the existence of a nuclear powered attack submarine (SSN) in 1957 (first commissioned in 1955) to a deployed fleet ballistic missile boat (SSBN) in November 1960. Indeed, by the end of 1960, 4 years after initiation of the Polaris project, 2 SSBN's were on patrol and 12 were in various stages of outfitting or

*The Polaris System Development: Bureaucratic and Programmatic Success in Government, Harvey M. Sapolsky (Harvard University Press, 1972)

construction. Major technical accomplishments during that short period included solid fuel missiles with adequate thrust for a 1200 mile range and the technique for launching missiles from submerged submarines. The hull of an SSN was "cut open" and redesigned in this period to accommodate the 16-tube missile mid-section. The entire nuclear submarine revolution from the 1949 go-ahead given by the Chief of Naval Operations for the Nautilus to the deployment of the first Polaris SSBN boat in 1960 required only 11 years! The SUM system involves nothing like the major technological advances made in developing nuclear submarines and solid fuel SLBM's. SUM is merely a realization of a concept presented in the STRAT-X study of 1967: encapsulated missiles as in the MX racetrack basing, secure C³, good guidance accuracy, and integrated crew functions. It is a substantial change in operational concept, relying on large fuel cell propulsion systems, but only a modest advance in technology, including radio inertial guidance improvements. The allegation of SUM availability only by the 1990's is not only unsubstantiated by analysis, it denies the capacity for our industrial and defense establishments to respond in a timely fashion to national needs. It is reported* that the first response to the challenge to deploy missiles at sea was also that initial deployment would require 10 years. (I am referring here to the original Navy proposal in the fall of 1955 to deploy a modified liquid-fueled Jupiter missile; it projected 1963 as the date for the first submarine launch of the missile and 1965 for initial SLBM deployment.) We proved then that with determined and committed leadership we can do much better. Is there no hope now? The SUM challenge is a very, very much more modest one than Polaris.

"SUM must operate in deep waters as a short-range submarine with no apparent advantage over conventional submarine such as Trident."

The differences between SUM and Trident with respect to ASW lie in three factors:

1. SUM is deployed closer to the U.S. shoreline and therefore in waters under more complete control of the U.S. Navy, with more shore-based assets available for operations against potentially threatening activities by Soviet ships.

2. SUM presents many new targets (from 30-40 boats) to tax Soviet anti-submarine warfare assets.

3. The SUM boats are small, move slowly, and can be designed to be very quiet, avoiding particularly noise generation due to pumps, heat exchangers, fast drive shafts, and the like in the current nuclear submarines.

Further analysis of the operational importance and significance of these factors for the SUM deployment relative to Trident is necessary and has been proposed by us. Indeed, the analysis of these issues should be pursued both by interested and qualified contractors and by technical experts (skeptics and enthusiasts). One appropriate mechanism for performing this analysis is the Office of Technology Assessment of the U.S. Congress.

I have additional specific comments on the draft report as follows: Section 2.1 discussed the Continental Shelf Sitter. This was not proposed as the basing for the SUM system because the available deployment area is too limited. This entire issue was clarified in the letter by Dr. Garwin and myself to Senator Hatfield that appeared in the Congressional Record (S16353, November 9, 1979). In particular, we also never proposed to "sit on the ocean bottom."

The discussion of existing diesel electric submarines was presented by SUM proponents as an exemplar and as a possible very rapid option in response to a request by Senator Hatfield. This is not the basic SUM proposal that we are advocating.

It is simply wrong to claim, as the draft report does first on page 2, that "substituting SUM for MX would represent an abandoning of the Triad in favor of a Dyad of bombers and submarines. . . ." The U.S. would still retain a force of some 800 Minutemen under SALT limits.

Finally, let me say that, as a technical man who has been involved in technical issues of U.S. national security for more than 20 years, I realize that it is not always possible to arrive at a good technical answer to every technical problem. I do believe that SUM is a promising basing option that avoids problems inherent in a multiple protective shelter deployment, such as the racetrack, which were emphasized in my letter to you of January 22, 1980 which I submitted as a statement for the record of your subcommittee hearings. However, I also believe that it has yet to be established that SUM is the best solution for the United States to the growing problem of vulnerability of our fixed land based ICBMs. We must do our best—especially in so vital a matter as U.S. national security and in so costly and huge a project where we cannot afford to do otherwise. I am confident that we can do better than the seriously flawed MX racetrack basing concept. I am convinced that the Administration has not been fully responsive to the request by the U.S. Congress that alternatives to a land based multiple protective shelter system be given full consideration. Such an analysis is greatly needed. If there are other implicit political, strategic, or service roles-and-missions issues, aside from straight technical ones, that are of preeminent importance in the ultimate choice of a basing by the U.S., these, too, should be explicitly presented, fully analyzed, and explained in the national discussions.

In the meantime, a judgment must be made as to the desirable pace for proceeding to solve the "Minuteman vulnerability" problem. If it is concluded that it is unacceptable to U.S. national security to further delay a decision on the go-ahead for a new survivable basing system, we still have another option. That is to immediately enhance the Trident force. As Dr. Zelberg pointed out in our discussion, an additional Trident boat could be deployed by 1986 or 87 if we started on it at this time. This would add approximately 192 survivably based warheads to the U.S. deterrent assuming the deployment of the Trident I missile, although further enhancement of the sea based force with the Trident II is also a possibility in this time frame. Such an increase is comparable to what the entire first half of the racetrack deployment would add to the calculated survivable megatonnage against the Soviet threat as projected under the SALT II limits. I hope these remarks are of use in your continuing deliberations.

Sincerely yours,

SIDNEY D. DRELL,
Professor and Deputy Director.●

SQUANDERING AMERICA'S TREASURE

● Mr. MATHIAS. Mr. President, for weeks now in committee and in the Chambers of both Houses of the Congress we have devoted much of our time and effort and thought to balancing the Federal budget. Earlier we agreed that, if we were ever to get a handle on inflation in this country, a balanced budget was the place to begin. I pledged myself to this effort and support the decisions necessary to reach the goal.

But as we seek to husband America's financial resources in order to bring inflation under control, let us not forget that we are squandering other American

assets in the most profligate ways. The basic assets of any society are its people and particularly its children. As we conserve some assets we must take special care not to waste our human assets, our fundamental investment in the future.

I ask that the accompanying article be printed in the RECORD.

The article follows:

SOME SAD FACTS ABOUT AMERICA'S CHILDREN

(By Carl T. Rowan)

There I was worrying about the hostage situation in Iran when onto my desk came a disturbing report about millions of Americans who are hostages to poverty, ignorance and the unconcern of society.

The report is about children, and it recently was submitted to President Carter by the U.S. National Commission on the International Year of the Child.

Jean C. Young, commission chairperson, opened her letter to Mr. Carter with this blunt paragraph: "Childhood evokes for most of us images of joy, laughter and play; of bright healthy children surrounded by a warm and loving family. But the harsh realities of life for millions of children not only around the world but also here in the United States contrast starkly with those images."

If you care about what these children will bring to—or do to—America in their adulthood, ponder these "harsh realities":

One child out of six in the U.S. lives in poverty. One-fourth of our children are on Aid to Families With Dependent Children at some time before they grow up.

One million are victims of child abuse and neglect.

Almost 10 million children—one out of six—have no regular source of medical care; some 20 million under the age of 17—one out of every three—have never seen a dentist.

An estimated 500,000 to 750,000 children are growing up outside their homes, in foster, group and institutional care.

One million youngsters run away from home each year for reasons ranging from teen-age rebellion to unbearable living conditions.

Every year, more than 550,000 teen-agers become mothers; most are not ready to take on the responsibility of raising a child.

Almost three times as many youngsters committed suicide during 1977 as did in 1950. Since 1950, the suicide rate has tripled for 15- to 19-year-old boys and has more than doubled for boys between 10 and 14.

Nearly one out of every five 14- to 17-year-olds—5.3 million youngsters in all—have drinking problems.

Thirteen per cent of all 17-year-olds in school today are illiterate, and that percentage does not include dropouts.

Seventy-four thousand youngsters under age 18 are in prisons or correctional facilities.

The situation is even more desperate among minorities and the poor. The mortality rate of children aged 1 to 4 is 70 per cent higher among minority youngsters than among whites. One black or Hispanic child drops out of school for every two who graduate, and four American Indians drop out for every one who graduates.

Even those who do get an education face bleak futures: A young black college graduate has the same chance of being unemployed as does a white high school dropout, and a black high school graduate's chances of working are about equal to those of a white grade school dropout.

Granted, this is the negative picture of America's children. The majority of this country's 60 million youngsters lead whole, healthy lives, says the commission report. But as these figures so dramatically show,

too many do not. And, except for the special burdens of the disadvantaged, problems affect children from all sectors of society—rich and poor, suburbs and cities, black and white.

The commission made several recommendations for changes in education, health care, juvenile justice, family support services.

According to news stories, when President Carter received the report, he did not indicate whether he intended to carry out any of those recommendations, but he did pledge that "This is not the end of our country's commitment to young people."

Let's hope not. For we must recognize the urgent need to do more for "hostage" children—whether we have children, are children, know children or simply care about the future of our country and the word.●

AMERICA IS THE SAUDI ARABIA OF COAL

● Mr. BAYH. Mr. President, on Monday, May 12, 1980, the report of the "World Coal Study, Coal—Bridge to the Future," was released. The World Coal Study (WOCOL) has been an international project involving over 80 people from 16 major coal-using and coal-producing countries. This important study was ably and surehandedly directed by its creator, Dr. Carrol Wilson of the Massachusetts Institute of Technology. Dr. Wilson is deserving of our highest praise and acclaim for conceiving the project and for his dedication to the timely completion of this ambitious task. The WOCOL report is a major milestone in the development of the essential details of a strategy to achieve energy independence: greater reliance on coal for domestic energy supplies and as an increasingly valuable export commodity.

At the first meeting of WOCOL held at Aspen, Colo., in October of 1978, the participants outlined the purpose of the study:

The World Coal Study is designed to be an action-oriented assessment of future prospects for coal. . . . Its objective is to examine the future needs for coal in the total energy system and to assess the prospects for expanding world coal production, utilization, and trade to meet these needs. . . . It will rely as much as possible on available and appropriate analysis performed by others. It will apply its own resources in areas where other satisfactory work is not available and it will undertake its own evaluation of possible coal development strategies. Environmental issues will be given special attention because of their importance in the expansion of the production of use of coal.

It is to Dr. Wilson's credit that the WOCOL report has achieved these aims, delivering to us an outline of what must be done to assure that enough energy is available at reasonable prices to meet the needs of our Nation. We must begin to work now to achieve the very promising news of the WOCOL report. Every day that our Nation remains dependent on expensive and scarce foreign petroleum, our national security is threatened. America is the Saudi Arabia of coal. Coal is the centerpiece of an effective strategy to achieve energy independence. I commend the WOCOL study personnel for their efforts and suggest that all of my colleagues in the Senate and the House of Representatives take their message to heart.

INDIANA COAL CONFERENCE

In my own State of Indiana we generate 98 percent of our electrical energy through coal-burning powerplants. We know what a valuable resource coal is. Last year Indiana produced 28 million tons of coal, but we could have produced 37 million tons with expanded markets. A major finding of the WOCOL report is that America has an enormous export potential for coal. Indeed, the report finds that world steam coal trade will have to increase tenfold to fifteenfold in the next 20 years to support reasonable economic growth. By the year 2000, coal could become America's largest single source of foreign exchange.

Because of these exciting possibilities, I have organized an Indiana Coal Export Conference to be held on June 20 in Evansville, Ind. Other sponsors of this day-long event will be the Chambers of Commerce of Terre Haute and Evansville, the United Mine Workers, and the Mining and Reclamation Council. The U.S. Department of Commerce is cooperating in organizing the program. Other agencies represented will include the Department of Energy, the Export-Import Bank of the United States, and the Department of Transportation. Also in the program will be coal operators with first-hand experience in coal exports and representatives from the major coal companies with operations in the State.

It is our hope that by bringing together coal producers, mine workers, financial experts, business representatives, Government officials and transportation planners we can have a useful discussion of the future development of Indiana coal resources and formulate strategies to expand the coal market—particularly for export. As the WOCOL report emphasizes, effective coalitions must be formed to apply firm and determined pressure toward our objective of seeing America achieve in fact that promise of being the Saudi Arabia of coal.

Mr. President, I ask that two articles discussing the WOCOL report be printed in the RECORD.

The articles follow:

[From the New York Times, May 13, 1980]

COAL AS KING; AMERICANS AS SAUDIS

Coal has a dirty reputation, and rightly so. Mining it kills thousands, scars landscapes and ruins waterways with acid drainage. Burning it pollutes the air, killing thousands more. No wonder that coal gave way to oil as the world's premier fuel—and no wonder that environmentalists have been wary of turning back to coal, no matter how plentiful. But now it seems clear that they, and all of us, had better take another look. Coal may be good for the world and especially good for America.

An internationally sponsored World Coal Study, issued yesterday after 18 months of work, offers a surprisingly upbeat prognosis for expanded coal use in the next two decades. The study contends that oil now costs so much that it is possible to spend heavily to clean up coal and still come out far ahead. And it predicts that coal can compete successfully against oil in export markets. The United States could become a "Saudi Arabia of coal exporters."

This is a rosy vision. But if it is even remotely accurate, the old image of coal is clearly wrong. Coal can fill the world's energy gap for at least two decades without threatening major environmental damage.

The central message of the report—compiled by Prof. Carroll Wilson of M.I.T. and experts from 16 countries that produce and use most of the world's coal—is that coal use must be tripled, and steam coal exports increased at least tenfold, if the world is to solve its immediate energy problems. What are the alternatives? Conservation alone cannot contribute enough. Nuclear power is meeting increasing resistance. Solar and other renewable energy sources cannot be developed and widely marketed until about the year 2000. So in the meantime most of the added energy needed for moderate economic growth must come from coal.

That can be accomplished, the report contends, without sacrificing health, safety and environmental protection. The reason: oil is now so expensive that it is economic to clean up coal. The cost of mining, transporting and burning coal in this country, even after applying the strictest environmental standards, is roughly \$60 a ton; the equivalent amount of crude oil would cost about \$165. That gives coal an enormous price advantage that could be used to meet even stricter environmental standards, if deemed necessary. And the price gap is getting bigger, not smaller.

Coal's greatest environmental threat is thought to be the "greenhouse effect"—the possibility that carbon dioxide produced by burning coal and other fossil fuels might cause catastrophic changes in global climates. On this danger, the Coal Study tempers. It notes, rightly, that there are many uncertainties as to whether such changes will occur; even if they do, coal may not make much difference. If the effects do prove serious, the report says, coal combustion can be cut back. That seems a reasonable approach—if the world is really prepared to take the necessary control steps at the time.

The export potential for coal is often overlooked, even by the American coal industry itself. The United States has by far the biggest export potential, followed by Australia and South Africa. By the year 2000, coal could become America's largest single source of foreign exchange—not to mention a benefit of incalculable value: greatly lessening United States dependence on imported oil.

The World Coal Study is more upbeat than many previous reports on the potential for coal. But its projections are not outlandish. The goals can be reached through a 5 percent annual growth in coal production, a level that has been met in recent years. The study calls for a prompt start on building the transportation and equipment needed for a large expansion in coal use. It also seeks Government action to speed licensing, stabilize environmental standards and encourage investment. What a small price to pay, in both industry and Government, for shattering the oil cartel's domination of world energy.

STUDY ON COAL URGES TRIPLING OF WORLD USE

(By Joanne Omang)

The world will have to triple coal consumption between now and 2000 if any kind of real economic growth is to be sustained, according to a major energy study released yesterday.

Describing itself as "carefully optimistic," the World Coal Study organization of researchers from 16 countries concluded that enough coal is available and that it "can be mined, moved and used at the most stringent environmental protection standards and at acceptable costs" to accomplish the task.

The only hitch is that key decisions must be made now, before heavy demand begins, because of the time involved in setting up mines, rail lines and shipping facilities, the study said.

The two-volume report, entitled "Coal:

Bridge to the Future," was coordinated by Dr. Carroll L. Wilson of the Massachusetts Institute of Technology and involved 38 high government and international corporation leaders.

Wilson directed a 1977 workshop on alternate energy strategies study that predicted recession would accompany reduced Middle East oil output in the early 1980s. "We were too optimistic," he said in an interview. "It's happening now, and at lower oil levels than we predicted."

The new report, Wilson said, shows there is a way out.

It involves major conservation efforts, marshaling of all other available energy resources and a 10- to 15-fold increase in world coal trade. "Without such a coal expansion the outlook is bleak," he said.

To maintain a modest 3 percent annual average growth rate worldwide, world oil exports would have to rise about 4 million barrels per day from the current 26-million-barrel level, the report estimated. Instead, exports are likely to drop to 22 million barrels per day because of growing internal demand or conservation policies in exporting countries.

Tar sands and heavy oil shales offer promise after 2000 but not before; natural gas will require building expensive, time-consuming facilities, and nuclear power is suffering from "political uncertainty" that is delaying new plant construction worldwide, the report said.

Conservation "may well become one of the world's largest energy 'sources'" over the next 20 years but cannot do the job alone, the study continued. Hydropower, alcohol fuels and solar energy along with other "alternative" energy sources will make a growing contribution, it said, but only really come into their own after 2000.

Until then the world must rely on coal, the study concluded.

In fact, where oil supplied two-thirds of the power for economic growth in developed countries during the last 20 years, coal can and should supply that much over the next 20, it said, with oil providing little or none of the economic growth.

This would require a total world increase in coal consumption from 2.5 billion metric tons this year to 6 billion or 7 billion tons by 2000, an annual growth rate of 4 to 4.5 percent, about the same rate as coal use grew during the 1950s, the study said. Reserves are ample, so vast they are "difficult to comprehend," totaling about 250 times the world 1977 production.

But it will take money, about \$200 billion over the coming two decades for mining, transport, ports and ships, the study said, and \$740 billion for construction and conversion of power plants. Government help will clearly be essential, not only in providing capital but also in smoothing licensing procedures, providing a stable investment climate and setting up believable environmental standards.

The researchers acknowledged that coal's environmental impact is one of its most controversial aspects. However, they said, crude oil at \$35 a barrel means that coal can cost up to \$165 per metric ton and still be cheaper. Right now, the study said, all environmental requirements on mining, reclamation, emissions and wastes can be met at an average of \$35 a ton in Japan, for example, where controls are strict, and the total cost per ton is \$80.

"It is likely that environmental concerns or control costs will preclude the development of certain sites or certain coal resources," the study said. "However, there are so many possible sites and resources remaining worldwide that such exclusion will not be a limiting factor to the expansion of coal use."

The only environmental impact of coal about which nothing can be done is a world-

wide buildup of carbon dioxide in the atmosphere. Researchers fear this could lead to a "greenhouse effect" that would warm the atmosphere, change the earth's climate patterns and disrupt the growing seasons.

The study acknowledged that coal puts out 25 percent more carbon dioxide than oil, but added, "most [researchers] expect that there are at least several decades to evaluate the carbon dioxide modification issue."●

COAL—BRIDGE TO THE FUTURE

● Mr. HUDDLESTON. Mr. President, on Monday, the very important and encouraging results of a major international coal study conducted by the Massachusetts Institute of Technology were released. The report, entitled "Coal—Bridge to the Future," concludes that coal can provide an impressive two-thirds of the added energy needed to fuel the world's economic growth over the next 20 years, and that "even if OPEC nations decide to hold down oil output indefinitely and the current slowdown in the expansion of nuclear power continues, the coal rich nations—spearheaded by the United States and Australia—can lead the way out of the present energy dilemma."

The report well documents exciting opportunities for the United States to use our vast resources of coal to help improve the world energy situation, end our own reckless dependence on foreign oil, and significantly brighten our balance-of-payments outlook in the process. But as the report's director, Dr. Carroll Wilson, wisely observed—

This is an optimistic message, but it is not a self-fulfilling prophecy.

We must have an immediate and unwavering commitment to coal use in this country, and that includes a commitment to overcome the unnecessary and counterproductive obstacles which currently keep coal from realizing its full potential.

The New York Times yesterday called Government action to speed licensing, stabilize environmental standards, and encourage investment "a small price to pay, in both industry and government, for shattering the oil cartel's domination of world energy." If we neglect to pay that small price, we will be admitting to ourselves and the world that we lack the resolve to meet the energy crisis head on.

I ask that a summary of the world coal study report and the New York Times editorial of May 1333 entitled "Coal as King; Americans as Saudis" be printed in the RECORD, and I urge my colleagues to give them careful consideration.

The material follows:

WORLD COAL STUDY REPORT

WASHINGTON, May 12.—Coal can provide two-thirds of the added energy needed to fuel the world's economic growth over the next 20 years.

Even if OPEC nations decide to hold down oil output indefinitely and the current slowdown in the expansion of nuclear power continues, the coal-rich nations—spearheaded by the United States and Australia—can lead the way out of the present energy dilemma by tripling world coal production and multiplying exports of steam coal 10-15 times.

This goal is attainable. It will require a 5 percent annual growth in the production of coal, which already provides a quarter of the world's energy—more than any other source except oil. But, it will require early commitments by coal users.

Without unacceptable increases in cost, this additional coal can be mined, transported and used in most areas of the world in conformity with high standards of health, safety and environmental protection by applying available technology.

If this goal is met, global energy problems can be faced with confidence. If it is not met, the world economic outlook is bleak.

There can no longer be any doubt that the world has reached the end of an era in its energy history. Increasing supplies of oil imports, the basis for three decades of unparalleled economic growth, will not be available.

Coupled with vigorous conservation and predictable increases in energy supplies from sources other than oil, coal can bridge the transition from the fading petroleum era to next century's renewable energy. Coal is the only fuel capable of doing this in large enough quantities within the time available.

Unique among nations, the United States has the opportunity with its enormous coal reserves, to break the world's energy stalemate by becoming the Saudi Arabia of coal exporters. Coal could become its largest single source of foreign exchange by the year 2000.

These carefully optimistic assessments are the conclusion of 38 persons holding key positions in governments and private and public institutions in 16 countries around the world. They were organized as the World Coal Study (WOCOL) by Professor Carroll L. Wilson of M.I.T. and worked together intensively for 18 months. Their report, *Coal—Bridge to the Future*, was released here today and simultaneously around the world by WOCOL country teams.

Professor Wilson is internationally known for organizing and directing the first comprehensive analysis of world energy to the end of the century, the Workshop on Alternative Energy Strategies (WAES). It also consisted of teams from 15 countries, some different from WOCOL. The WAES report in 1977, *Energy: Global Prospects 1985-2000*, became a landmark when it projected that world oil demand would outstrip supply by 1983 if OPEC nations decided to restrict oil production. Loss of Iran's exports and restricted output by other countries has brought us close to the ceiling in 1980.

The WOCOL project, launched in 1978, is unique among international studies. It is an action-oriented attempt to chart a practical course through the energy obstacles of the next two decades. WOCOL is the first major attempt to examine the requirements against the potential of coal-producing countries to meet them.

WOCOL teams first assembled their data and future projections for their own countries, which produce and use 60 percent of the world's coal and consume 75 percent of the world's energy. They combined these projections with information from other studies to make regional, and finally global estimates.

Major conclusions from the study—in addition to those above are:

World coal reserves are enormous. Technically and economically recoverable reserves are large enough to support 1977 production rates for another 250 years and are 5 times world proven oil reserves. Only 15 percent of these coal reserves would be used by year 2000 even under WOCOL projections of expanded coal use. New reserves are being discovered at a rapid rate.

Because prices of coal are likely to be based on costs, over the long term the present price advantage of coal over oil and gas is likely to increase.

The technology for mining, moving and

using coal is well established and steadily improving.

The amount of capital needed to triple the production and use of coal and greatly expand world coal trade is well within the capacity of the world's capital markets.

"WOCOL's conclusions point a way out of the energy dilemma towards more world economic security over the next twenty years," Professor Wilson said in releasing the report. "This is an optimistic message, but it is not a self-fulfilling prophecy. The lead time between signing a contract for the output of a prospective new mine and using its coal hundreds or thousands of miles away in a new power plant can be as much as ten years. The potential bottlenecks in between are numerous. And at almost every step, government approvals have to be obtained."

"The price of delay at any one of these points can be disastrous: too little coal, too late. Time is our most valuable resource. It must be used as efficiently as energy."

World coal production in 1977 totaled about 2.5 billion tons of coal equivalent of which the U.S. produced nearly a quarter.¹ Coal production is highly concentrated. Eighty percent of the world production comes from eight countries, seven of which—United States, China, Poland, West Germany, United Kingdom, Australia and India—were represented by WOCOL teams.

Since 12 of the 16 WOCOL countries are members of the Organization for Economic Cooperation and Development (OECD) and account for 94 percent of OECD's coal production and 95 percent of its energy use, most of the detailed figures in the report are for the countries of the OECD.

The major coal use in the year 2000, as today, is projected to be in electric utilities, which now consume more than 60 percent of total coal. It is estimated that the rapid decline in the use of coal by industrial users will be reversed, particularly after 1985 when such use is projected to grow at 5-7 percent a year, perhaps quadrupling by 2000.

A substantial new coal market as feedstock for synthetic oil and gas plants could develop in the 1990's, the report says, particularly in the United States. Estimates by the WOCOL teams indicate that coal could supply as many as 65 large synfuel plants in the OECD producing the equivalent of 3 million barrels of oil/day by the year 2000.

The United States has by far the biggest potential for exporting coal (350 mtece), followed by Australia (200 mtece) and South Africa (100 mtece). This means that as coal import needs rise much above the capacity of other exporters the bulk of the additional exports will have to come from the United States.

One of the basic assumptions in the report is that conservation will become, over the next 20 years, "one of the world's largest energy 'sources'." WOCOL assigned it such a role, assuming in its projections a 25 percent reduction by 2000 in OECD energy input per unit of economic activity (GNP). This would reduce the amount of increased energy needed by almost as much as the threefold expansion of coal projected in the report.

The health, safety, and environment aspects of coal mining, transport and use were carefully scrutinized, country by country, by the WOCOL teams. These studies showed that by 1979 many countries had adopted detailed legislative and regulatory systems for controlling the environmental, health, and safety effects accompanying increased coal production and use.

With the exception of CO₂, according to the report, "the technology is available to meet these concerns and to comply with the most stringent of the current environmental standards in each WOCOL country at costs

¹ See the attached explanation of energy units.

that leave coal competitive with oil at mid-1979 prices in most areas." This conclusion applies with even more force today with oil prices that are more than 50 percent higher.

"Acid rain resulting from the long-range transport of emissions including those from coal burning is acute in some regions," the report stated, "and may require early actions by nations in such regions." Emission strategies and technologies are available and would be effective in controlling long-distance airborne pollution, but decisions on who pays the costs involved are complex because acid rain usually falls far from the source in distant regions or other countries.

In the United States, the Clean Air Act requires the installation of emission control equipment on all new coal-fired plants. Such standards will allow the expansion of coal use to occur with substantially reduced impact on existing air quality or acid rain conditions. Mr. Douglas Costle, Administrator of EPA in testimony on March 19 said "Existing (coal) power plants on average emit more than 80 pounds of sulfur dioxide for every ton of coal they burn. The new plants covered by our performance standard will produce on average only 12 pounds of sulfur dioxide for each ton of coal burned. Depending upon retirement schedules for existing plants, sulfur loadings will eventually be reduced even with a high level of economic growth."

In this country, therefore, concern about acid rain applies primarily to existing rather than new emission sources, Professor Wilson said. The key issues, he added, appear to be whether the problems associated with acid rain warrant the cost of retrofitting modern emission control technology on old plants or their early replacement, and who pays the cost.

WOCOL members concluded that the present knowledge of carbon dioxide effects on climate "does not justify delaying the expansion of coal use." The WOCOL members said that their finding is consistent with the authoritative statement on the carbon dioxide question issued by the World Climate Conference in 1979, which said:

The causes of climatic variations are becoming better understood, but uncertainty exists about many of them and their relative importance. Nevertheless, we can say with some confidence that the burning of fossil fuels, deforestation, and changes in land use have increased the amount of carbon dioxide in the atmosphere by about 15 percent during the last century and it is at present increasing at about 0.4 percent per year. . . . It is possible that some effects on a regional and global scale may be detectable before the end of this century and become significant before the middle of the next century. This time scale is similar to that required to redirect, if necessary, the operation of many aspects of the world economy, including agriculture and the production of energy.

Professor Wilson, who directed one of the earliest international studies on climate change, A Study of Man's Impact on Climate (1971) noted, in releasing the report, that the WOCOL studies provide some basis for optimism about the time scales of possible future problems from CO₂ buildup.

The World Coal Study projections, he said, imply a reduction in the rate of growth of energy-related CO₂ emissions of about 50 percent. This slowdown in the growth rate, he explained, results in part from the strong conservation assumptions built into the WOCOL projections, which lead to a corresponding reduction in the rate of growth of fossil energy use and thus of CO₂ emissions.

The members of the U.S. WOCOL team are: Thornton F. Bradshaw, President, Atlantic Richfield, Co.; Gordon R. Corey, Vice Chairman, Commonwealth Edison Co.; W. Kenneth Davis, Vice President, Bechtel

Power Corp.; Pierre Gousseland, Chairman and Chief Executive Officer, AMAX Inc.; Prof. Robert C. Seamans, Jr., Dean, School of Engineering, M.I.T., and former Administrator, Energy Research & Development Administration (ERDA); Russell E. Train, President, World Wildlife Fund—U.S., and former Administrator, Environmental Protection Agency (EPA).

The other participants range from the director of a university institute of energy economics in West Germany, to the chairman of Britain's National Coal Board, the deputy general manager and director of a large Australian corporation, to the joint secretary of India's Ministry of Energy. Eight WOCOL members were also members of WAES, including the chairman of Japan's Economic Research Center, who resigned from WOCOL last November to become Foreign Minister of Japan.

COAL—Bridge to the Future is being published by Ballinger, a division of Harper & Row, and will be available tomorrow in bookstores around the world. Next month, Ballinger will publish a second volume—Future Coal Prospects: Country and Regional Assessments—which contains the full text of the comprehensive country studies by WOCOL teams in the 16 nations participating in the study as well as assessments for other regions of the world.

ENERGY UNITS

Throughout this report we have used the unit *mtce* or *million metric tons of coal equivalent* as our standard measure of coal and energy use. This measure is based on the conventional unit of a *ton of coal equivalent* (tce), which is defined as a metric ton (2,205 pounds) * of coal with a specific heating value (7,000 kcal/kg or 12,600 Btu/lb).

Coals vary significantly in heat content, and most coals have a heat content of less than 12,600 Btu/lb. For this reason more than 1 metric ton of coal is often required to produce the energy content of 1 tce. In this regard it is important to recognize that it is physical tons that must be mined, transported, and burned or processed. The table below indicates the conversion factors from 1 tce to physical tons of coal of various calorific contents. In terms of oil equivalents, 1 tce converts to 0.65 tons of oil equivalent (i.e., 1 tce=1.55 tce) and to 4.8 barrels of oil.

Conversion factors for coals of various calorific contents

Type of coal, typical calorific content, and quantity equivalent to 1 tce:

Bituminous, 12,000 Btu/lb, 1.05 tons.

Subbituminous, 9,000 Btu/lb, 1.4 tons.

Lignite, 7,000 Btu/lb 1.8 tons.

One *mtce* provides 27.78 trillion (10¹²) Btu's of energy. The following table provides an illustration of the amounts of energy provided by various quantities of coal.

Illustrative scaling comparisons for various quantities of coal

Quality of coal and indicator of amount of energy provided:

2 *mtce*—Annual primary fuel requirement for a 1,000 MWe electric power plant if it operates at a 65 percent capacity factor and generates 5.7 billion kWh per year electricity.

5-7 *mtce*—Annual coal feedstock requirement for a 50,000 barrels per day synthetic liquids plant or a 250 million cubic feet per day synthetic gas facility.

34 *mtce*—Amount of energy provided by 1 exajoule (10¹⁸ joules).

76 *mtce*—Amount of energy supplied annually by 1 million barrels per day of oil.

100-140 *mtce*—Annual coal feedstock requirement for production of 1 mbd synthetic liquids.

Comparison of the costs of various types of fuel is complicated by differences among the costs of fuel supply/delivery/use systems, by variations in fuel use efficiencies, and by the quality characteristics of different fuel types.

The table below shows the costs of several fuels that are equivalent, on a calorific (Btu) basis only without accounting for the above differences, with oil at three price levels—\$20/barrel, \$30/barrel, and \$40/barrel. For example, the table shows that coal at \$142/tce is equivalent on a Btu basis to oil at \$30/barrel.

Cost of coal, natural gas, and heat that are equivalent to various oil prices

Fuel type	Oil price		
	\$20 barrel	\$30 barrel	\$40 barrel
Coal (\$ per tce) ..	\$95	\$142	\$190
Natural gas (\$ per thousand cf) ..	3.30	5.00	6.60
Heat (\$ per million Btu)	3.40	5.10	6.80

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The central message of the report—compiled by Prof. Carroll Wilson of M.I.T. and experts from 16 countries that produce and use most of the world's coal—is that coal use must be tripled, and steam coal exports increased at least tenfold, if the world is to solve its immediate energy problems. What are the alternatives? Conservation alone cannot contribute enough. Nuclear power is meeting increasing resistance. Solar and other renewable energy sources cannot be developed and widely marketed until about the year 2000. So in the meantime, most of the added energy needed for moderate economic growth must come from coal.

That can be accomplished, the report contends, without sacrificing health, safety and environmental protection. The reason: oil is now so expensive that it is economic to clean up coal. The cost of mining, transporting and burning coal in this country, even after applying the strictest environmental standards, is roughly \$60 a ton; the equivalent amount of crude oil would cost about \$165. That gives coal an enormous price advantage that could be used to meet even stricter environmental standards, if deemed necessary. And the price gap is getting bigger, not smaller.

Coal's greatest environmental threat is thought to be the "greenhouse effect"—the possibility that carbon dioxide produced by burning coal and other fossil fuels might cause catastrophic changes in global climate.

*A metric ton is 10 percent heavier than a short ton (2,000 pounds), the unit commonly used in the United States.

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gest export potential, followed by Australia
and South Africa. By the year 2000, coal
could become America's largest single source
of foreign exchange—not to mention a bene-
fit of incalculable value: greatly lessening
United States dependence on imported oil.

The World Coal Study is more upbeat than
many previous reports on the potential for
coal. But its projections are not outlandish.
The goals can be reached through a 5 per-
cent annual growth in coal production, a
level that has been met in recent years. The
study calls for a prompt start on building
the transportation and equipment needed for
a large expansion in coal use. It also seeks
Government action to speed licensing, stabi-
lize environmental standards and encourage
investment. What a small price to pay, in
both industry and Government, for shattering
the oil cartel's domination of world
energy.●

DEATH OF ROBERT J. NORTHERN

● Mr. HATFIELD. Mr. President, it is
my sad duty to announce the death of
Mr. Robert J. Northern, who for 30
years was an employee in the Senate
Disbursing Office.

Jerry Northern came to the Senate in
1946. In a position of great care and
responsibility, he was diligent, authori-
tative, and helpful. By reputation and
practice, he reflected high credit upon
himself and the institution he served.

Jerry Northern will be remembered as
a man of broad intellectual capacity and
great personal cheer. All those who had
the privilege to know him mourn his
passing and extend sympathy to his
loved ones.●

U.S. STRATEGIC BALLISTIC MISSILE SUBMARINE INVULNERABILITY AND PROJECT ELF

● Mr. LEVIN. Mr. President, over the
course of the past few months our col-
league from New Hampshire, Senator
HUMPHREY has addressed this body re-
garding the strategic nuclear balance be-
tween our country and the Soviet Union,
and about what he sees as an urgency for
the President to decide to deploy a pro-
posed extremely low frequency (ELF)
submarine communications system
known as Project ELF.

Our colleague has stated that unless
we deploy Project ELF immediately, the
strategic ballistic missile submarines
(SSBN's) which form the foundation of
our nuclear deterrent will become in-
creasingly vulnerable to Soviet antisub-
marine warfare (ASW) forces.

I disagree with my colleague's state-
ments and hope that neither the Amer-
ican people nor the Soviets misunder-
stand what actually is the real nature of
the strategic balance and of the contin-
uing invulnerability of our strategic bal-
listic missile submarines.

As a member of the Committee on
Armed Services, I can report to the Sen-

ate, to our constituents who look to us to
preserve our national security by our
votes on the defense budget, and to our
potential adversaries who might be
wrongly encouraged to challenge us, that
the overwhelming body of expert testi-
mony before our committee for the past
2 years supports exactly the opposite
conclusions as those reached by Senator
HUMPHREY.

While we must conduct an appropriate
modernization program to maintain and
improve our enormously capable, flexible
and powerful strategic nuclear forces,
our present Triad remains a strong and
viable deterrent and defense against So-
viet nuclear aggression of nuclear black-
mail.

Both the Secretary of Defense, Dr.
Harold Brown, and the Pentagon's top
scientist, Dr. William J. Perry, Under
Secretary of Defense for Research and
Engineering, have testified that, con-
trary to Senator HUMPHREY's assess-
ment, this situation will continue
throughout the 1980's—including the
early period of the decade which some
have erroneously referred to as the
"window of vulnerability."

Doctor Brown, who has been connected
with our nuclear weapons programs since
almost their very beginning has stated
that, even considering the hypothetical
Soviet threat against our ICBM's before
the MX is deployed, the Soviets could not
gain political or military advantage. He
stated:

In 1985, our bomber and submarine force
will be far more capable than today, and far
more capable than the corresponding Soviet
force.

In 1985 the U.S. would have a range of
devastating responses open to it were the
Soviets to run the enormous risks of an
attack on our ICBM's. It bears emphasizing,
because it is so often ignored, that even after
a total loss of Minuteman missiles, we would
not face the dilemma of surrender by inaction
or mutual suicide by an all-out attack on
Soviet cities and industry, provoking an
equivalent attack on ours. We would instead
have surviving bomber and submarine forces
still fully capable of selectively attacking
military, economic, and control targets, thus
negating any gain the Soviets might imagine
they could attain by an attack on our ICBM
force.

In the aftermath of an attack on U.S.
ICBM's, the remaining Soviet ICBM's would
not be in sanctuary. Our ALCMs in surviving
bombers would have the accuracy, numbers,
and ability to penetrate defenses sufficient to
allow us significantly to reduce the residual
Soviet ICBM force. The time for cruise mis-
siles to arrive on target would be longer than
the time for ICBM's to arrive, but that ele-
ment of difference is only one among many
factors in determining the balance.

All these facts being true, the Soviets could
not hope to gain political or diplomatic lever-
age from their advantage in a narrow area—
ICBM vulnerability.

Dr. Perry specifically rejected Senator
HUMPHREY's contention that we are stra-
tégically inferior to the U.S.S.R.

Second, there has been extensive and
conclusive testimony from the Navy's top
submarine admirals, from the Navy's top
scientist, and from the General Account-
ing Office, that our SSBN's are invulner-
able now and are expected to remain so
through at least the next 10 years, de-
spite the many billions the Soviets spend

on antisubmarine warfare (ASW) re-
search.

This assessment, I might add, refers to
our ballistic missile submarines (SSBN's)
using their present communications sys-
tems which Senator HUMPHREY considers
so threatening and which ELF is in-
tended to augment.

I have repeatedly pressed our Nation's
top military and civilian defense officials
about both the Soviet (ASW) threat and
what role our present submarine com-
munications systems play in increasing
or reducing this threat.

This is because the Navy has justified
the Project ELF system as less threaten-
ing to our SSBN's than present systems
because it does not require these sub-
marines to deploy a floating wire antenna
at the surface or a towed buoy antenna
between 12-40 feet below the surface,
which in turn impose speed and depth
restrictions on our missile submarines.
Senator HUMPHREY has referred to this
same justification repeatedly.

Last year, Rear Adm. Jeffrey C. Metzel,
Jr., Director of the Antisubmarine War-
fare Division of the Office of the Chief
of Naval Operations reaffirmed the
Navy's conclusion that the Soviets have
not had a militarily significant return on
their heavy investment in trying to coun-
ter U.S. submarines in the open ocean
areas where our SSBN's operate.

I asked Admiral Metzel whether he
agreed with the following two excerpts
from the Chief of Naval Operations pub-
lication entitled "Understanding Soviet
Naval Developments":

Although they have expanded considerable
resources in recent years on antisubmarine
warfare including an intensive ASW research
and development program the U.S. Navy's
leaders do not believe that the Soviets have
resolved the problem of locating a large
number of nuclear-powered submarines on
the high seas with a high degree of prob-
ability. This task becomes progressively more
difficult as longer-range missiles become
available to permit submarines to operate
in much larger areas of ocean and still re-
main within range of their targets.

The admiral stated his agreement.

I want to underscore the Navy's con-
clusion that the Soviet ASW task "be-
comes progressively more difficult as
long range missiles become available to
permit submarines to operate in much
larger areas of ocean and still remain
within range of their targets."

This is exactly how we intend to great-
ly complicate Soviet ASW efforts, Mr.
President—by deploying the new, much-
longer range Trident missiles in our ex-
isting Poseidon and new Trident sub-
marines. The new Trident boats, because
of technological sound dampening ad-
vances in which our Navy excels and due
to their increased size, which permits in-
corporation of more "quieting" tech-
niques, also will be significantly more
quiet than our Poseidon and Polaris
SSBN's and certainly more quiet than
Soviet submarines.

Since antisubmarine warfare is heavily
dependent on sound detection, our quiet-
ing capabilities are a major advantage
over the Soviet threat and a primary
reason why our SSBN's will remain

virtually invulnerable in the foreseeable future.

Let me include in the RECORD here the exchange between Senator HUMPHREY and Vice Adm. Charles H. Griffiths, Deputy Chief of Naval Operations for Submarine Warfare, on April 2, 1980, because I think it is a very enlightening reaffirmation of how well our Navy is doing to maintain the present and future invulnerability of our SSBN's:

Senator HUMPHREY. I understand that one TRIDENT submarine provides the same capability as all 10 POLARIS submarines. However, by replacing the 10 POLARIS boats with the first TRIDENT boat, we are succumbing to a status quo mentality. Is our strategic posture vis-a-vis the Soviets already so good that we can afford not to improve it? Moreover, is one TRIDENT boat more survivable than 10 POLARIS boats?

Admiral GRIFFITHS. One TRIDENT submarine provides a strategic weapons capability greater than that provided by all 10 of the POLARIS SSBNs. Far from maintaining a status quo, we will continue to increase the sea launched ballistic missile force capability with each additional TRIDENT submarine entering the fleet. Moreover, we have already backfitted the more capable TRIDENT-I missile into three Atlantic based POSEIDON submarines and will backfit a total of 12 SSBNs with this missile. The greater range of this missile provides these ships with the increased survivability inherent in the resulting greatly increased operating area and permits these SSBNs to cover potential targets immediately upon departure from their base at Kings Bay, Georgia.

The TRIDENT submarines are built, not with a status quo mentality, but with growth room in the missile tubes to accommodate a future missile with much greater payload and accuracy and thus the capability to destroy hard targets. Additionally, the TRIDENT submarines are built to be much quieter and to have greater evasion capability than the POLARIS or POSEIDON SSBNs, as well as having the flexibility, through growth room, to install countermeasures if future threats develop.

Survivability of SSBNs is a function of individual submarine detectability and total patrol area size. Since TRIDENT detectability is significantly less than that of POLARIS, and the patrol area is of the order of ten times larger than that of POLARIS, the survivability of a TRIDENT force is much greater than that of a POLARIS force.

Admiral Griffiths last year even was able to state that "the delay in the ELF communications system has not impacted on the vulnerability of the present SSBN force."

The General Accounting Office last year, after many interviews with Navy intelligence, communications and submarine warfare experts gave at least five major reasons why Project ELF could not be justified, in its opinion:

First, because of the extensive duplication and reliability of existing systems the Navy uses to communicate with its submarines;

Second, because there is a high likelihood that submarine antennas and other receiving systems will not be detected and therefore, will not endanger the SSBN's;

Third, because SSBN's are "extremely survivable now and will continue to be survivable for the foreseeable future;"

Fourth, because of the limited appli-

cability of Project ELF to attack submarine operations and missions, (a secondary Navy justification); and,

Fifth, Project ELF is no more survivable in a nuclear war than existing day-to-day submarine communications systems.

This year before the committee Vice Admiral Griffiths reported that the Soviet ASW threat had not improved since he was before us in 1979, and he said that already programmed improvements to U.S. SSBN's, not including ELF, "will provide continued survivability."

I would like to insert the unclassified part of Admiral Griffiths' response to my question into the RECORD here to further demonstrate my point, along with a response from another top submarine admiral, Rear Adm. Robert H. Wertheim, the Navy's Director of Strategic Projects.

Admiral Wertheim, who is in charge of the Polaris/Poseidon submarine and missile programs and of the Trident missile program, also testified that there had been no improvement in Soviet ASW capabilities during the past year:

Senator LEVIN. Since your appearance before this Committee last year, has there been any change in the Soviet threat to our strategic ballistic missile submarines in term terms of greatly improved Soviet anti-submarine warfare capabilities?

Admiral GRIFFITHS. (S) There has been no change in our assessment of the Soviet threat to our strategic missile submarines. We continue to believe that Soviet anti-submarine warfare (ASW) force are not now an effective counter to U.S. SSBNs. We believe that Soviet ASW capabilities will improve, but that introduction of the TRIDENT missile and TRIDENT submarine with the corresponding expanded operating areas and improved acoustic quieting will provide continued survivability.

Senator LEVIN. Since your appearance before this Committee last January, has there been any change in the Soviet threat to our strategic ballistic missile submarines in terms of greatly improved Soviet anti-submarine warfare capabilities?

Admiral WERTHEIM. I am aware of no such change.

Admiral Griffiths also made it clear this year that the present communications systems are not now a threat to our SSBN's.

Furthermore, Mr. President, the Pentagon's top scientist, Dr. Perry, and the Navy's top scientist, Dr. David E. Mann, Assistant Secretary of the Navy for Research and Development, both testified this year that, contrary to Senator HUMPHREY's contention, we still have several years before we must start ELF deployment without decreasing the high survivability of our missile submarines.

Lastly, it was clear after this year's testimony that even if we have underestimated the progress the Soviets are making in ASW, it is highly unlikely that they could catch us by surprise and develop a significant threat to our SSBN's before we could develop appropriate and offsetting countermeasures.

Dr. Perry rebutted Senator HUMPHREY's "surprise breakthrough" contention by stating that we would have several years of warning because of our vigorous programs to monitor, predict and counter Soviet ASW efforts.

In summary, and contrary to my col-

league from New Hampshire's statements, there has been no testimony before our Committee on Armed Services which supports a conclusion that the Soviet ASW threat is of a magnitude which justifies the type of decision to deploy ELF, that he is urging.

To the contrary, considering the hundreds of millions of scarce taxpayers dollars which would be required to deploy Project ELF, I believe that our responsibilities to the taxpayers warrant a much more responsible approach.

Such a more responsible approach would consider whether there are more capable alternatives to Project ELF which could be developed and deployed in advance of any potential Soviet ASW threat.

Congress and the President have a responsibility to seriously evaluate alternative ways to meet our defense needs so we can be confident that we are receiving the best national security return on our defense investments.

This is especially so in these perilous economic times, as we try to balance the Federal budget. That is why our committee's Research and Development Subcommittee has tentatively decided to allocate additional funding to investigate a possible Project ELF alternative known as the blue-green laser or "Strategic Laser Communications System."

If the technology develops as it could, we would be able to deploy a much more capable and survivable system than Project ELF and do so still within a timetable to beat a potential Soviet ASW threat.

Senator HUMPHREY apparently rejects a proper investigation into the feasibility of such a system in his haste to deploy ELF.

He claims that such a system may or may not be achievable by the year 2000, may only be able to reach SSBN's operating down to 300 feet, may not be able to penetrate clouds and seawater and will rely on vulnerable satellites.

Again, I must disagree with my colleague.

In part the present assessment of the potential for lasers for strategic submarine communications is quite different than it might have been 1 year ago when the Defense Department was resisting it as an innovative idea and a possible threat to Project ELF.

The blue-green laser communications is not some wild-eyed scheme which was concocted only recently. Four years ago, the basic principles of using such lasers for communications were articulated. Three years ago, the House Armed Services Committee recognized their potential and accelerated funding of an Air Force program to demonstrate by next year a prototype satellite and laser system which could be adapted for blue-green use.

Thus, we are not talking about some "pie in the sky" proposal as Senator HUMPHREY would have us believe by his statements.

This year, scientists within the Defense Department already have drafted a preliminary plan which would deploy a strategic laser communications system more capable and more survivable than

Project ELF well before the year 2000, contrary to Senator HUMPHREY's claims.

Not only could such laser signals penetrate through clouds and seawater well below 300 feet, but such a system imposes no speed or operating restrictions on our SSBN's. Even Project ELF would restrict SSBN depths and speeds, and has another operational constraint not possessed by the laser system—an ELF antenna must be deployed in a certain direction to receive signals. The laser system receives signals from all directions.

Most importantly, a laser system, because it could be more survivable and has faster, higher message volume transmitting capacities, would be able to transmit emergency action messages (EAMS) to our strategic forces during or after a nuclear attack, something ELF cannot do.

Through distant positioning, and redundancy, such a laser system would not be vulnerable to a surprise attack by Soviet antisatellite capabilities, again contrary to Senator HUMPHREY's claim.

I would like to insert in the RECORD at this point a brief outline of the growth potential of the strategic laser communications system as drafted by Defense Department scientists.

The outline follows:

STRATEGIC LASER COMMUNICATION GROWTH POTENTIAL

The initial operational capabilities achieved by the deployment of first-generation Strategic Laser Communication (SLC) equipment afford substantial benefits in terms of increased survivability of the ballistic missile submarine force. While this initial capability would be comparable to that offered by the austere version of the Extremely Low Frequency (ELF) concept, SLC offers strong growth potential, which could be efficiently realized, to very high payoff systems. This growth is foreseeable in the areas of data rate upgrade, real-time flexibility, anti-jam capability and—perhaps most importantly—survivability.

Increasing the survivability of any Strategic Communications System impacts heavily on the effectiveness of our nation's strategic deterrence as it allows more carefully considered and flexible responses and greatly magnifies the enemy's problems in attempting pre-emptive action. The increased survivability could come in stages, the first of which would dramatically increase the time or effort required for communications neutralization, thus ruling out surprise as an element of attack. Further increases in survivability would provide continuing strategic command and control during and well after any attack.

Strategic laser communications offer a variety of means of decreasing vulnerability as technology matures and the system grows. The system of satellites would become more difficult to attack through redundancy, increasing orbital distances, quiet reserve satellites in maneuverable orbits and ultimately through active defense. Uplink stations would be made more survivable through replication and redundancy, transportable ground stations, hidden and hardened reserves, and airborne laser uplinks. Further advance could be achieved with the space laser system which could be stationed at five times synchronous altitude and which would require only small and portable microwave uplink stations. Even in the earliest stages, several hours would be required to neutralize the SLC system, resulting in total loss of surprise.

The proposed Strategic Laser Communica-

tion System also offers the unique ability to change from wide-area coverage at low data rate to high data rate in restricted areas. This operational flexibility, which cannot be achieved with any ELF System, could support tactical and special submarine operations and could allow timely communications with submarines in the event of emergencies. Further, there is a natural and efficient growth in system capacity to the point of achieving wide area coverage at higher data rates as well as growth to communicating with SSBN's in the Indian Ocean. This would permit rapid Emergency Action Message Transmission and eventually complete operational broadcasts permitting submarines to operate deep and undetectable at all times in all operating areas. Thus, the rapid and random scanning techniques envisioned combined with these high data rates and flexibility offer a unique anti-jam capability. The potential operational payoffs are therefore enormous in terms of our nation's security.

Mr. LEVIN. This more optimistic assessment of strategic laser communications potential is possible this year, Mr. President, because there have been significant, and in part unexpected, advances in laser and optical technology in the past year.

We are spending billions of dollars annually on laser technology throughout the Federal Government, and much of this research is complementary and mutually supporting, even though it all is not coordinated in a single program or directed toward the same goals.

For example, there is the high energy laser weapons work which I know my colleague from New Hampshire supports enthusiastically. Another example is the Air Force's program to develop airborne communications lasers. The Department of Energy is developing lasers in its inertial confinement fusion and isotope separation programs.

Defense Department scientists have reported to me that, since last year, we have made significant progress in three areas key to the development of a blue-green laser communications system:

DOD has made substantial strides in developing efficient lasers of sufficient power to support an initial, ground based approach for the system;

DOD has conducted cloud characterization studies in the heaviest cloud-cover region of the world and has discovered evidence that diffusion and weakening of a laser through such an atmosphere "is well within" what was expected and thus would not interfere with sending signals by a laser of the power contemplated for the system. In fact, DOD has discovered that less powerful lasers would be needed than previously thought; and

The Department of Energy has significantly advanced its research toward developing a space-based laser of the operating lifetime and power required for a blue-green communications system. Progress has been made earlier than expected, which holds out the prospect for reducing system development time.

These developments contradict Senator HUMPHREY's summary dismissal of the potential for the strategic laser communications system.

Finally, Mr. President, I would like to address Senator HUMPHREY's statements 2 days ago connecting improvements in the Navy's TACAMO communications aircraft with Project ELF. He said:

Well, perhaps we would not need to have such a large fleet of aircraft, and fly them to death if we had ELF. They could be held in reserve for post attack.

Mr. President, I must disagree again. The Navy yesterday reaffirmed to me that there is no direct connection between it and Project ELF.

The Navy stated that TACAMO is a program designed to transmit emergency action messages to SSBN's during and after a nuclear attack, and that at least one TACAMO aircraft is kept continuously airborne, which increases its flying hours, to assure its survivability in a nuclear exchange.

TACAMO aircraft rarely transmit messages during peacetime to avoid detection by the Soviets and only to test the system's reliability, the Navy said. The requirement to improve and augment the present TACAMO fleet stems from the fact that the current aircraft are aging and are less capable of carrying new, heavier communications equipment. Also, we need to procure a certain number of such aircraft to keep one each airborne continuously over the Atlantic and Pacific Oceans, not to perform communications missions which Project ELF could do.

On the other hand, Project ELF would be a peacetime, non-emergency action message system which would transmit to our SSBN's on a day-to-day basis—a vastly different system than TACAMO.

Mr. President, when I began this statement, I said I was concerned that the American people and the Soviet leaders not misunderstand the great strengths in our present strategic nuclear forces as well as the present and projected invulnerability of our fleet ballistic missile submarines.

I hope that the public and the Soviets give serious attention to the statements by our Nation's leading Navy and civilian defense experts which support my conclusions.

To summarize:

Our missile submarines are invulnerable to Soviet threats today, and they are projected to remain this way well into the foreseeable future.

There is no urgency to decide this year to deploy Project ELF, which is a peacetime only, low-message rate, less capable and less survivable communications system than we may be able to develop for improving our links to our missile submarines.

More capable, more survivable, wartime and higher message rate alternatives to Project ELF, such as the blue-green laser communications system, ought to be pursued aggressively to determine their potential before we make a decision to commit ourselves to a less capable ELF system.●

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may have until midnight tomorrow, Thursday, May 15, to file reports.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

**ORDER FOR MESSAGE FROM HOUSE
ON HOUSE JOINT RESOLUTION
318 TO BE HELD AT THE DESK**

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as a message from the House of Representatives on House Joint Resolution 318 is received, it be held at the desk pending further disposition by the Senate.

Mr. STEVENS. There is no objection. The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—S. 2134

Mr. ROBERT C. BYRD. Mr. President, because of a clerical oversight, S. 2134 when reported from the Committee on Environment and Public Works did not include the words specifying the fiscal year for which funds were authorized. To correct this error, I ask unanimous consent, on behalf of Mr. RANDOLPH, that S. 2134 be reprinted as a star print with the following addition:

On page 3, line 4 add the following words: "for fiscal year 1981" after "\$645,000."

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 a.m. tomorrow morning, and under Senate rule XXII, after passage of 1 hour, the clerk will be directed to establish a quorum, after which the Senate will proceed to

vote on the motion to invoke cloture on the bottling bill.

If that vote carries 60 votes, then the Senate will proceed to the consideration of that bill to the exclusion of all other business until action is completed on it.

Also, it is hoped that conferees can complete action on the food stamp appropriations bill tomorrow so that matter will not be left hanging over to Friday.

I expect several rollcall votes tomorrow.

RECESS TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until the hour of 9 a.m. tomorrow morning.

The motion was agreed to and, at 9:26 p.m., the Senate recessed until tomorrow, Thursday, May 15, 1980, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate May 14, 1980:

DEPARTMENT OF STATE

Francis J. McNeill, of Florida, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Costa Rica.

Theresa Ann Healy, of Virginia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sierra Leone.

THE JUDICIARY

Carmen Consuelo Cerezo, of Puerto Rico, to be U.S. district judge for the district of

Puerto Rico, vice a new position created by Public Law 95-486, approved October 20, 1978.

IN THE NAVY

The following-named rear admirals of the Reserve of the U.S. Navy for permanent promotion in the grade of rear admiral, in the line and staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

LINE

William Jewell Gilmore
Joseph L. Loughran
Herbert Marvin Bridge
Samuel Amspoker Cummins
Martin Joseph Andrew
Benjamin J. Lehman
Phillip Wesley Smith, Jr.
George William Lotzenhiser
James William Gray, Jr.
Donald Sebring Albright, Jr.
Carl August Brettschneider

MEDICAL CORPS

Harold Moser Voth
Matthias Henry Backer, Jr.
Park Weed Willis, III
John Robert Senior

SUPPLY CORPS

Dean Bearchell Sailer
William Alvin Armstrong
Frank James Allston

CHAPLAIN CORPS

Gerald Edwin Kuhn

CIVIL ENGINEER CORPS

Peter Ross Brown

JUDGE ADVOCATE GENERAL'S CORPS

Penrose Lucas Albright

DENTAL CORPS

Frank Hannum Anderson